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MDALGORITHM, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LA CANADA VENTURES, INC.,

Plaintiff and
Counterdefendant,

v.

MDALGORITHM, INC.,

Defendant and Counterclaimant.

Case No. 22-cv-07197 RS

**ANSWER TO SECOND AMENDED
COMPLAINT; AMENDED
COUNTERCLAIM**

Honorable Richard Seeborg

Defendant and Counterclaimant MDalgorithms, Inc. (“MDalgorithms”), by and through its counsel of record below, hereby responds to the Second Amended Complaint of Plaintiff La Canada Ventures, Inc. (“La Canada”), as follows:

NATURE OF THE ACTION

1. Answering the allegations of Paragraph 1, MDalgorithms denies the allegations.

THE PARTIES

2. Answering the allegations of Paragraph 2, MDalgorithms is informed and believes that La Canada is a California corporation having its principal place of business in San Mateo, California.

3. Answering the allegations of Paragraph 3, MDalgorithms admits that it is a Delaware corporation with headquarters at 22 Shlomzion Hamalka Street, Herzliya, Israel 4662. MDalgorithms denies the remaining allegations of Paragraph 3.

JURISDICTION AND VENUE

4. Answering the allegations of Paragraph 4, MDalgorithms admits the allegations.

5. Answering the allegations of Paragraph 5, MDalgorithms admits the allegations.

6. Answering the allegations of Paragraph 6, MDalgorithms admits the allegations.

LA CANADA AND ITS MARKS

7. Answering the allegations of Paragraph 7, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

8. Answering the allegations of Paragraph 8, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

9. Answering the allegations of Paragraph 9, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

10. Answering the allegations of Paragraph 10, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

11. Answering the allegations of Paragraph 11, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

12. Answering the allegations of Paragraph 12, MDalgorithms denies the allegations.

13. Answering the allegations of Paragraph 13, MDalgorithms denies the allegations.

MDALGORITHMS AND ITS ALLEGED INFRINGING ACTIVITY

14. Answering the allegations of Paragraph 14, MDalgorithms admits that it offers a treatment system, utilizing computer technology, to diagnose potential treatments. MDalgorithms denies the remaining allegations of Paragraph 14.

15. Answering the allegations of Paragraph 15, MDalgorithms admits that it registered “MDacne” with the United States Patent and Trademark Office, that such registration was assigned Registration No. 4946004, that such registration is for “Computer software and downloadable computer software for education and advice in the field of the care and treatment of

1 skin disorders, namely, acne” in Class 9 and for “Providing a website featuring information and
 2 advice in the field of the diagnosis and treatment of disorders, namely, acne” in Class 41, and that
 3 such registration asserts a first-use date of May 16, 2010. MDalgorithms denies the remaining
 4 allegations of Paragraph 15.

5 16. Answering the allegations of Paragraph 16, MDalgorithms admits that it registered
 6 “MDacne” with the United States Patent and Trademark Office, that such registration was
 7 assigned Registration No. 5,519,511, that such registration is for “Medicated skin treatment and
 8 cleansing creams” in Class 5, and that such registration asserts a first-use date of May 16, 2010.
 9 MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the
 10 remaining allegations, and therefore denies same.

11 17. Answering the allegations of Paragraph 17, MDalgorithms admits that it registered
 12 “MDhair” with the United States Patent and Trademark Office on the Supplemental Register, that
 13 such registration was assigned Registration No. 6,617,014, and that such registration is for
 14 “providing temporary use of on-line non-downloadable computer software for education and
 15 advice in the field of the care and treatment of skin and hair” in Class 42. MDalgorithms lacks
 16 knowledge or information sufficient to form a belief as to the truth of the remaining allegations,
 17 and therefore denies same.

18 18. Answering the allegations of Paragraph 18, MDalgorithms admits that it filed an
 19 intent-to-use trademark application for “MDskin”, that such application was for “downloadable
 20 mobile software for use in analyzing a user’s skin and preparing a personalized treatment plan” in
 21 Class 9, and that in a June 24, 2021 response to the USPTO it listed a La Canada registration as
 22 one of many cited examples of third-party uses of MD-formative marks for personal care products,
 23 including beauty and cosmetic care. MDalgorithms lacks knowledge or information sufficient to
 24 form a belief as to the truth of the remaining allegations, and therefore denies same.

25 19. Answering the allegations of Paragraph 19, MDalgorithms admits the allegations.

26 20. Answering the allegations of Paragraph 20, MDalgorithms admits that it registered
 27 the mark “MDacne” for “non-medicated skincare preparations” in Class 3 and that it asserted a
 28

first-use date of November 21, 2021. MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore denies same.

21. Answering the allegations of Paragraph 21, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

22. Answering the allegations of Paragraph 22, MDalgorithms admits the allegation that “MD” is commonly understood in certain contexts to mean “Doctor of Medicine.”

MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore denies same.

23. Answering the allegations of Paragraph 23, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

24. Answering the allegations of Paragraph 24, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

25. Answering the allegations of Paragraph 25, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies same.

26. Answering the allegations of Paragraph 26, MDalgorithms denies the allegations.

MDALGORITHMS’ ALLEGED WILLFUL DISREGARD OF ACTUAL CONFUSION

27. Answering the allegations of Paragraph 27, MDalgorithms admits that it received a letter from La Canada alleging indications of actual confusion, that La Canada requested that MDalgorithms cease use of certain trademarks, and that MDalgorithms responded to La Canada’s letter. MDalgorithms denies that any evidence of “actual confusion was brought to MDalgorithms’ attention” by La Canada and the remaining allegations.

28. Answering the allegations of Paragraph 28, MDalgorithms denies that La Canada “continued to experience actual confusion.” MDalgorithms admits that La Canada nonetheless reported alleged infringement to Amazon.com and Apple regarding MDalgorithms’ products and app in an attempt to interfere with and harm MDalgorithms’ business.

29. Answering the allegations of Paragraph 29, the allegations do not sufficiently identify the “subsequent letter” at issue, and MDalgorithms accordingly lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and denies same.

30. Answering the allegations of Paragraph 30, MDalgorithms admits that it sells certain products without an additional treatment system. MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and denies same.

31. Answering the allegations of Paragraph 31, MDalgorithms denies the existence of any actual confusion. MDalgorithms admits the allegations that it raised certain legal claims as to La Canada in response to La Canada falsely reporting claims of actual confusion and infringement to third parties concerning MDalgorithms.

COUNT I – FEDERAL TRADEMARK INFRINGEMENT

32. Answering the allegations of Paragraph 32, MDalgorithms repeats and realleges its responses to the allegations in Paragraphs 1-31 of the Complaint as though fully set forth herein.

33. Answering the allegations of Paragraph 33, MDalgorithms denies the allegations.

34. Answering the allegations of Paragraph 34, MDalgorithms admits that La Canada is the listed owner of the cited trademark registrations. MDalgorithms denies the remaining allegations.

35. Answering the allegations of Paragraph 35, MDalgorithms admits that La Canada has filed a Section 15 affidavit as to Registration No. 4,471,494. MDalgorithms denies the remaining allegations as to Registration 4,471,494. MDalgorithms lacks knowledge or belief as to which additional registrations La Canada is specifically referencing in this Paragraph 35, and accordingly denies such allegations.

36. Answering the allegations of Paragraph 36, MDalgorithms denies the allegations.

37. Answering the allegations of Paragraph 37, MDalgorithms denies the allegations.

38. Answering the allegations of Paragraph 38, MDalgorithms admits that it uses MDhair and MDacne concerning its products. Except as expressly admitted, MDalgorithms denies the remaining allegations.

39. Answering the allegations of Paragraph 39, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and denies same.

40. Answering the allegations of Paragraph 40, MDalgorithms denies the allegations.

1 41. Answering the allegations of Paragraph 41, MDalgorithms denies the allegations.

2 42. Answering the allegations of Paragraph 42, MDalgorithms denies the allegations.

3 43. Answering the allegations of Paragraph 43, MDalgorithms denies the allegations.

4 44. Answering the allegations of Paragraph 44, MDalgorithms denies the allegations.

5 45. Answering the allegations of Paragraph 45, MDalgorithms denies the allegations.

6 **COUNT II – UNFAIR COMPETITION**

7 46. Answering the allegations of Paragraph 46, MDalgorithms repeats and realleges its
 8 responses to the allegations in Paragraphs 1-45 of the Complaint as though fully set forth herein.

9 47. Answering the allegations of Paragraph 47, MDalgorithms denies the allegations.

10 48. Answering the allegations of Paragraph 48, MDalgorithms denies the allegations.

11 49. Answering the allegations of Paragraph 49, MDalgorithms denies the allegations.

12 50. Answering the allegations of Paragraph 50, MDalgorithms admits that it uses
 13 MDhair and MDacne concerning its products. Except as expressly admitted, MDalgorithms
 14 denies the remaining allegations.

15 51. Answering the allegations of Paragraph 51, MDalgorithms denies that it is
 16 infringing any claimed rights owned by La Canada and lacks knowledge or information sufficient
 17 to form a belief as to the truth of the remaining allegations, and denies same.

18 52. Answering the allegations of Paragraph 52, MDalgorithms denies the allegations.

19 53. Answering the allegations of Paragraph 53, MDalgorithms denies the allegations.

20 54. Answering the allegations of Paragraph 54, MDalgorithms denies the allegations.

21 55. Answering the allegations of Paragraph 55, MDalgorithms denies the allegations.

22 56. Answering the allegations of Paragraph 56, MDalgorithms denies the allegations.

23 57. Answering the allegations of Paragraph 57, MDalgorithms denies the allegations.

24 **COUNT III – CANCELLATION OF REGISTRATION**

25 58. Answering the allegations of Paragraph 58, MDalgorithms repeats and realleges its
 26 responses to the allegations in Paragraphs 1-57 of the Complaint as though fully set forth herein.

27 59. Answering the allegations of Paragraph 59, MDalgorithms denies the allegations.

60. Answering the allegations of Paragraph 60, MDalgorithms admits that La Canada is the listed owner of the cited trademark registrations. MDalgorithms denies the remaining allegations.

61. Answering the allegations of Paragraph 61, MDalgorithms admits that La Canada has filed a Section 15 affidavit as to Registration No. 4471494. MDalgorithms lacks knowledge or belief as to which additional registrations La Canada is specifically referencing in this Paragraph 61, and accordingly denies such allegations. MDalgorithms denies the remaining allegations as to Registration 4471494.

62. Answering the allegations of Paragraph 62, MDalgorithms denies the allegations.

63. Answering the allegations of Paragraph 63, MDalgorithms denies the allegations.

64. Answering the allegations of Paragraph 64, MDalgorithms admits that U.S. Reg. No. 6,668,393 for the mark “MDacne” issued to MDalgorithms on or about March 8, 2022. MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and denies same

65. Answering the allegations of Paragraph 65, MDalgorithms denies the allegations.

66. Answering the allegations of Paragraph 66, MDalgorithms denies the allegations.

67. Answering the allegations of Paragraph 67, MDalgorithms denies the allegations.

68. Answering the allegations of Paragraph 68, MDalgorithms admits the existence of its “MDacne” registrations provides it a presumptive right to use the mark in commerce. MDalgorithms denies the remaining allegations.

69. Answering the allegations of Paragraph 69, MDalgorithms denies the allegations.

COUNT IV – DECLARATION THAT LA CANADA’S CONDUCT IS LAWFUL

70. Answering the allegations of Paragraph 70, MDalgorithms repeats and realleges its responses to the allegations in Paragraphs 1-69 of the Complaint as though fully set forth herein.

71. Answering the allegations of Paragraph 71, MDalgorithms admits the allegations.

72. Answering the allegations of Paragraph 72, MDalgorithms denies the allegation that actual confusion has occurred as result of any conduct by MDalgorithms, and alleges that to the extent any confusion has occurred, it is due to La Canada’s improper and unlawful acts.

MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and denies same.

73. Answering the allegations of Paragraph 73, MDalgorithms admits that it has accused La Canada of acting improperly by making false reports of actual confusion and infringement, and that as a result MDalgorithms has indicated it will pursue certain claims against La Canada to defend itself. MDalgorithms denies the remaining allegations.

74. Answering the allegations of Paragraph 74, MDalgorithms denies the allegations.

75. Answering the allegations of Paragraph 75, MDalgorithms denies the allegations.

COUNT V – FALSE ADVERTISING CLAIM IN VIOLATION OF FEDERAL LAW

76. Answering the allegations of Paragraph 76, MDalgorithms repeats and realleges its responses to the allegations in Paragraphs 1-75 of the Complaint as though fully set forth herein.

77. Answering the allegations of Paragraph 77, MDalgorithms admits that it offers products in association with MDacne and MDhair, and that it maintains the website mdacne.com and mdhair.co, through which it offers its products in interstate commerce via the internet. Except as expressly admitted herein, MDalgorithms denies the remaining allegations.

78. Answering the allegations of Paragraph 78, MDalgorithms lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the unidentified “statements of fact” and denies same.

79. Answering the allegations of Paragraph 79, MDalgorithms admits that it offers a customized treatment option based on customer input in response to an questionnaire provided by MDalgorithms, and that the recommended product is based in part on the customer input. Except as expressly admitted herein, MDalgorithms denies the remaining allegations of Paragraph 79.

80. Answering the allegations of Paragraph 80, MDalgorithms admits that it offers certain of its products with dermatologist support on how to use its products, and that such support includes a Board-certified Dermatologist, who is a Fellow of the American Academy of Dermatology. MDalgorithms further admits that all of its products are available over the counter and without a medical prescription. Except as expressly admitted herein, MDalgorithms denies the remaining allegations of Paragraph 80.

1 81. Answering the allegations of Paragraph 81, MDalgorithms denies the allegations.
 2 82. Answering the allegations of Paragraph 82, MDalgorithms denies the allegations.
 3 83. Answering the allegations of Paragraph 83, MDalgorithms denies the allegations.
 4 84. Answering the allegations of Paragraph 84, MDalgorithms admits that La Canada
 5 has misleadingly culled out alleged, unverified negative reviews of MDalgorithms from
 6 trustpilot.com, which speak for themselves, and which reviews may be created with a simple email
 7 account without further verification, in contrast to other verified review sites where MDalgorithms
 8 has a rating of over 90% customer satisfaction, as evidenced by more representative samples of
 9 such reviews, attached as **Exhibit A**. Except as expressly admitted herein, MDalgorithms denies
 10 the allegations.

11 85. Answering the allegations of Paragraph 85, MDalgorithms denies that La Canada
 12 has received complaints from purchasers of MDalgorithms' MDhair products, unless La Canada
 13 purposefully directed such MDalgorithms customers to itself. Except as expressly admitted
 14 herein, MDalgorithms denies the remaining allegations.

15 86. Answering the allegations of Paragraph 86, MDalgorithms denies the allegations.

16 87. Answering the allegations of Paragraph 87, MDalgorithms denies the allegations.

17 88. Answering the allegations of Paragraph 88, MDalgorithms lacks information and
 18 belief as to whether La Canada "directly competes" with MDalgorithms, and denies the allegation.
 19 MDalgorithms denies the remaining allegations herein.

20 89. Answering the allegations of Paragraph 89, MDalgorithms denies the allegations.

21 90. Answering the allegations of Paragraph 90, MDalgorithms denies the allegations.

22 **COUNT VI – FALSE ADVERTISING CLAIM IN VIOLATION OF CALIFORNIA**
 23 **STATE LAW**

24 91. Answering the allegations of Paragraph 91, MDalgorithms repeats and realleges its
 25 responses to the allegations in Paragraphs 1-90 of the Complaint as though fully set forth herein.

26 92. Answering the allegations of Paragraph 92, MDalgorithms admits that it offers
 27 products in association with MDacne and MDhair, and that it maintains the website mdacne.com
 28

1 and mdhair.co, through which it offers its products in interstate commerce via the internet. Except
 2 as expressly admitted herein, MDalgorithms denies the remaining allegations.

3 93. Answering the allegations of Paragraph 93, MDalgorithms lacks knowledge or
 4 information sufficient to form a belief as to the truth of the allegations regarding the unidentified
 5 “statements of fact,” and denies same.

6 94. Answering the allegations of Paragraph 94, MDalgorithms admits that it offers a
 7 customized treatment option based on customer input in response to an questionnaire provided by
 8 MDalgorithms, and that the recommended product is based in part on the customer input. Except
 9 as expressly admitted herein, MDalgorithms denies the remaining allegations of Paragraph 94.

10 95. Answering the allegations of Paragraph 95, MDalgorithms admits that it offers
 11 certain of its products with dermatologist support on how to use its products, and that such support
 12 includes a Board-certified Dermatologist, who is a Fellow of the American Academy of
 13 Dermatology. MDalgorithms further admits that all of its products are available over the counter
 14 and without a medical prescription. Except as expressly admitted herein, MDalgorithms denies
 15 the remaining allegations of Paragraph 95.

16 96. Answering the allegations of Paragraph 96, MDalgorithms denies the allegations.

17 97. Answering the allegations of Paragraph 97, MDalgorithms denies the allegations.

18 98. Answering the allegations of Paragraph 98, MDalgorithms denies the allegations.

19 99. Answering the allegations of Paragraph 99, MDalgorithms admits that La Canada
 20 has misleadingly culled out alleged, unverified negative reviews of MDalgorithms from
 21 trustpilot.com, which speak for themselves, and which reviews may be created with a simple email
 22 account without further verification, in contrast to other verified review sites where MDalgorithms
 23 has a rating of over 90% customer satisfaction, as evidenced by La Canada’s own document and
 24 more representative samples of such reviews concerning the overwhelmingly positive consensus
 25 regarding MDalgorithms, attached as **Exhibit A**. Except as expressly admitted herein,
 26 MDalgorithms denies the remaining allegations.

27 100. Answering the allegations of Paragraph 100, MDalgorithms denies that La Canada
 28 has received complaints from purchasers of MDalgorithms’ MDhair products, unless La Canada

1 purposefully directed such MDalgorithms' customers to itself. Except as expressly admitted
 2 herein, MDalgorithms denies the remaining allegations.

3 101. Answering the allegations of Paragraph 101, MDalgorithms denies the allegations.

4 102. Answering the allegations of Paragraph 102, MDalgorithms denies the allegations.

5 103. Answering the allegations of Paragraph 103, MDalgorithms lacks information and
 6 belief as to whether La Canada "directly competes" with MDalgorithms, and denies the allegation.
 7 MDalgorithms denies the remaining allegations herein.

8 104. Answering the allegations of Paragraph 104, MDalgorithms denies the allegations.

9 105. Answering the allegations of Paragraph 105, MDalgorithms denies the allegations.

10 106. Answering the allegations of Paragraph 106, MDalgorithms denies the allegations.

11 107. Answering the allegations of Paragraph 107, MDalgorithms denies the allegations.

12 **AFFIRMATIVE DEFENSES**

13 **FIRST AFFIRMATIVE DEFENSE** 14 **(Unclean Hands)**

15 108. La Canada is precluded from the requested relief because it has acted with unclean
 16 hands.

17 **SECOND AFFIRMATIVE DEFENSE** 18 **(Lack of Protectable Marks)**

19 109. The relevant marks allegedly proprietary to La Canada, as asserted in the
 20 Complaint, are not protectable as a matter of law.

21 **THIRD AFFIRMATIVE DEFENSE** 22 **(Balance of Hardships)**

23 110. La Canada's requested injunction is not warranted by the balance of hardships.

24 **FOURTH AFFIRMATIVE DEFENSE** 25 **(No Damages)**

26 111. La Canada's claims fail in whole or in part because it has not suffered any
 27 damages.

FIFTH AFFIRMATIVE DEFENSE
(No Likelihood of Confusion)

112. La Canada's claims fail in whole or in part because, to the extent it has any protectable trademark rights, such rights are so thin and narrow in such a crowded field of descriptive uses that no such confusion is likely with MDalgorithms or any of the countless third parties who utilize a mark with MD in combination with other terms.

SIXTH AFFIRMATIVE DEFENSE
(Failure to Police)

113. La Canada lacks the ability to seek enforce its purported trademark rights in "composite marks based on the root MD in combination with other terms" because of its failure to police such alleged rights.

SEVENTH AFFIRMATIVE DEFENSE
(Lack of Secondary Meaning)

114. The claims made in the Second Amended Complaint are barred, in whole or in part, on the basis that certain of La Canada's claimed trademarks lack secondary meaning.

ADDITIONAL DEFENSES

115. MDalgorithms reserves the right to assert additional defenses based on information learned or obtained during discovery.

WHEREFORE, MDalgorithms prays for judgment against La Canada as follows:

1. That La Canada take nothing by way of the Second Amended Complaint;
2. The Second Amended Complaint, and each and every purported claim for relief therein, be dismissed with prejudice;
3. That judgment be entered in favor of MDalgorithms;
4. That MDalgorithms be awarded its reasonable attorneys' fees and costs of suit as incurred; and
5. For such other and further relief as the Court may deem just and proper.

AMENDED COUNTERCLAIM

Defendant/Counterclaimant MDalgorithms, Inc. (“MDalgorithms”), for its Amended Counterclaim against Plaintiff/Counterclaim Defendant La Canada Ventures, Inc. (“La Canada”), alleges as follows:

1. La Canada’s Second Amended Complaint asserts rights based solely on purported trademark registrations which are invalid either because they were *void ab initio* upon filing with the USPTO due to incurable defects in the original applications or because false representations were subsequently made to the USPTO to achieve certain material and beneficial rights under 15 U.S.C. Section 1065 to which the registrant was not otherwise entitled. These registrations are therefore invalid and should be canceled.

2. The invalidity of La Canada’s claimed registrations only further confirms that La Canada is unfairly and unlawfully competing against MDalgorithms by purposefully utilizing MDalgorithms’ own marks, and only after MDalgorithms began use of such marks, to create the false belief that La Canada makes MDalgorithms’ products. For example, it was only after learning of MDalgorithms’ use of MDhair that La Canada took affirmative measures to utilize the URL www.mdhair.com to lure in to La Canada’s website those customers searching for MDalgorithms’ MDhair products. La Canada did not and does not offer a product named or labeled “MDhair” or “MD Hair,” nor had it marketed or promoted its goods as being available at mdhair.com at any time prior to MDalgorithms’ launch of its MDhair products. Similarly, it was only after learning of MDalgorithms’ use of MDacne that La Canada took affirmative measures to begin promoting its skincare products using the mark “MD acne” despite the fact that La Canada did not and does not offer a product named or labeled “MDacne” or “MD acne,” nor had La Canada marketed or promoted its goods under the “MD acne” mark prior to MDalgorithms’ launch of its MDacne products. La Canada has purposefully sought to use MDalgorithms’ own marks to deceive MDalgorithms’ customers, to create confusion, and to cause harm to MDalgorithms.

JURISDICTION AND VENUE

3. The Court has original jurisdiction over this action pursuant to 15 U.S.C. § 1131 and 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over La Canada because it resides in this district, regularly conducts business in this district and MDalgorithms' counterclaims arise out of business conducted in this district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, by reason of La Canada's business practices in this district and by reason of La Canada's Second Amended Complaint in this action.

THE PARTIES

6. Counterclaimant MDalgorithms, Inc. is a Delaware corporation with its principal place of business at 22 Shlomzion Hamalka Street, Herzliya, Israel 4662.

7. Upon information and belief, Counterclaim Defendant La Canada Ventures, Inc. ("La Canada") is a California corporation with its principal place of business at 448 N. San Mateo Drive, San Mateo, California 94401.

FACTUAL BACKGROUND

8. La Canada is a California corporation. MDalgorithms is informed and believes that La Canada was incorporated in 2006 and that since its formation, Dr. Susan Lin ("Lin") has been the Chief Executive Officer ("CEO") of La Canada.

CERTAIN OF PLAINTIFF'S PLED REGISTRATIONS ARE VOID AB INITIO DUE TO INCURABLE FILING DEFECTS

The Application for the MD FACTOR Registration was Void Ab Initio

9. On July 27, 2018, Attorney John Kasha of Kasha Law LLC, then counsel of record for Lin, filed a trademark application for the mark MD FACTOR in the name of Lin, averring that Lin was the "individual" owner of the application, for "Cosmetic preparations for beauty and wellness" in International Class 3.

1 10. On March 3, 2020, Attorney John Kasha filed a Statement of Use, alleging first use
 2 of the MD FACTOR mark on January 1, 2016. The application registered on March 30, 2021 and
 3 was assigned Reg. No. 6309386.

4 11. La Canada has now utilized and asserted that registration against MDalgorithms in
 5 its Second Amended Complaint [see, e.g., SAC, ¶10], asserting that MDalgorithms is infringing
 6 La Canada's rights arising from the purported registration.

7 12. Lin was not the true owner of the MD FACTOR mark at the time of the filing of
 8 the trademark application, because she, as CEO of La Canada, filed as an "individual," when in
 9 fact the La Canada corporation owned the mark. Because Lin was identified as the "individual"
 10 owner of the MD FACTOR mark at the time of the filing of the application, when in fact she did
 11 not own the mark, the trademark application was void as filed, and such defect is incurable
 12 pursuant to TMEP 1201.02(c) and 37 C.F.R. Section 2.71(d).

13 13. The application for the MD FACTOR registration was *void ab initio*, this defect
 14 cannot be cured, and the Court should accordingly issue an Order cancelling Reg. No. 6309386.

15 **The Application for the MD BY SUSAN F. LIN M.D. Registration was Void Ab Initio**

16 14. On October 17, 2018, Attorney Kelly Kasha of Kasha Law LLC filed a trademark
 17 application for the mark MD BY SUSAN F. LIN M.D. in the name of Lin, averring that Lin was
 18 the "individual" owner of the application, for "Cosmetics; hair shampoos and conditioners; non-
 19 medicated acne treatment preparations in the nature of facial cleaning preparation, namely,
 20 salicylic acne cleanser not for medical purposes; non-medicated toiletries in the nature of non-
 21 medicated toiletry preparations" in International Class 3 and "Acne treatment preparations;
 22 nutraceuticals for the treatment of hair loss; nutraceuticals for use as a dietary supplement" in
 23 International Class 5.

24 15. The application averred that Lin first used the mark in interstate commerce on
 25 January 1, 2014. The accompanying specimen of use submitted to the USPTO by Lin's counsel
 26 revealed that Lin was not the party using the mark in commerce.

27 16. The application registered on September 17, 2019 and was assigned Reg. No.
 28 5860508.

17. La Canada has now utilized and asserted that registration against MDalgorithms in its Second Amended Complaint [see, e.g., SAC, ¶10], asserting that MDalgorithms is infringing La Canada's rights arising from the purported registration.

18. Lin was not the true owner of the MD BY SUSAN F. LIN M.D. mark at the time of the filing of the trademark application, because she, as CEO of La Canada, filed as an "individual," when in fact the La Canada corporation owned the mark. Because Lin was identified as the "individual" owner of the MD FACTOR mark at the time of the filing of the application, when in fact she did not own the mark, the trademark application was void as filed, and such defect is incurable pursuant to TMEP 1201.02(c) and 37 C.F.R. Section 2.71(d).

19. The application for the MD BY SUSAN F. LIN M.D. registration was *void ab initio*, this defect cannot be cured, and the Court should accordingly issue an Order cancelling Reg. No. 5860508.

**The Application for the MD WELLNESS BY SUSAN F. LIN M.D. Registration was
Void Ab Initio**

20. On July 27, 2018, Attorney Kelly Kasha filed a trademark application for the mark MD WELLNESS BY SUSAN F. LIN M.D. in the name of Lin, averring that Lin was the "individual" owner of the application, for "Cosmetic preparation for beauty and wellness" in International Class 3 and "Supplement for beauty and wellness" in International Class 5.

21. Attorney John Kasha later filed a Statement of Use in support of the registration, averring a first-use date of January 1, 2017.

22. The application registered on January 19, 2021 and was assigned Reg. No. 6251811.

23. La Canada has now utilized and asserted that registration against MDalgorithms in its Second Amended Complaint [see, e.g., SAC, ¶10], asserting that MDalgorithms is infringing La Canada's rights arising from the purported registration.

24. Lin was not the true owner of the MD WELLNESS BY SUSAN F. LIN M.D. mark at the time of the filing of the trademark application, because she, as CEO of La Canada, filed as an "individual," when in fact the La Canada corporation owned the mark. Because Lin was

1 identified as the “individual” owner of the MD WELLNESS BY SUSAN F. LIN M.D. mark at the
 2 time of the filing of the application, when in fact she did not own the mark, the trademark
 3 application was void as filed, and such defect is incurable pursuant to TMEP 1201.02(c) and 37
 4 C.F.R. Section 2.71(d).

5 25. The application for the MD WELLNESS BY SUSAN F. LIN M.D. registration was
 6 *void ab initio*, this defect cannot be cured, and the Court should accordingly issue an Order
 7 cancelling Reg. No. 6251811.

8 **CERTAIN OF PLAINTIFF’S PLED REGISTRATIONS WERE MAINTAINED VIA**
 9 **FRAUD ON THE USPTO**

10 **The “MD” Registration and Subsequent Section 15 Fraud on the USPTO**

11 26. On or about March 19, 2012, Lin personally filed a federal trademark application
 12 for the mark “MD” for “Cosmetics; Hair shampoos and conditioners; Non-medicated acne
 13 treatment preparations; Non-medicated toiletries” in International Class 3 and “Acne treatment
 14 preparations; Nutraceuticals for the treatment of hair loss; Nutraceuticals for use as a dietary
 15 supplement” in International Class 5 (“MD Application”).

16 27. Lin listed herself as the “individual” owner of the MD Application. However, Lin
 17 was not the true owner of the MD mark at the time of filing of the trademark application, because
 18 she, as the CEO of La Canada, filed as an “individual,” when in fact the La Canada corporation
 19 owned the mark. The filed MD Application listing Lin as the owner was accordingly an incurable
 20 defect, as confirmed by TMEP Section 1201.02(c) and 37 C.F.R. Section 2.71(d), resulting in the
 21 application being *void ab initio*.

22 28. On September 19, 2013, Lin’s trademark counsel of record, Kasha Law LLC, and
 23 specifically Attorney John Kasha, filed a Statement of Use on behalf of Lin, alleging that Lin had
 24 first used the mark on January 1, 2012. Attorney John Kasha concurrently submitted respective
 25 specimens of use in International Classes 3 and 5 for the MD mark in support of the requested
 26 registration. Those specimens of use, which were La Canada marketing materials, not only
 27 appeared to show an improper use of the ® symbol displayed with the MD mark prior to
 28

1 registration, they also confirmed that Lin was not the owner of the mark and not the party using
 2 the mark in commerce. The MD mark then registered on January 21, 2014.

3 29. The submission of a valid Section 15 declaration under 15 U.S.C. Section 1065,
 4 which may be filed as early as five years from the original trademark registration date, provides
 5 that registrant a new right which she would not otherwise have, specifically, the right to have her
 6 registration in litigation (including this litigation) accepted as conclusive evidence of her exclusive
 7 right to use the registered mark in commerce.

8 30. In accordance with Section 15 of the Lanham Act, a valid affidavit or declaration of
 9 incontestability for the MD mark registration, if the requirements of Section 15 were met, could
 10 have been filed on or after January 21, 2019.

11 31. Immediately before that January 21, 2019 date, on January 15, 2019, Lin entered
 12 into a trademark license agreement (“License Agreement”) with La Canada, where she licensed
 13 certain trademark registrations and trademark applications (improperly filed in her name as an
 14 individual) to the La Canada corporation, including the MD mark. Per the License Agreement, the
 15 trademark license became effective on January 15, 2019.

16 32. MDalgorithms is informed and believes that Lin’s trademark counsel at Kasha Law
 17 LLC assisted Lin in preparing and executing the License Agreement.

18 33. Just four days later, on January 21, 2019, which was the first possible day to file the
 19 Section 15 Declaration of Incontestability for the MD registration, Lin’s counsel of record, Kasha
 20 Law LLC, submitted a Section 15 declaration on behalf of Lin for the MD registration.
 21 Specifically, Attorney Kelly Kasha signed the Section 15 Declaration on behalf of Lin, averring
 22 that Lin, “the owner” had “continuously used the mark in commerce for five (5) consecutive years
 23 after the date of registration . . . and is still using the mark in commerce on or in connection with
 24 all goods or services listed in the existing registration.” In submitting the Section 15 Declaration,
 25 Attorney Kelly Kasha also affirmatively confirmed the following statements:

- 26 a. “To the best of the signatory’s knowledge, information and belief, formed after an
 27 inquiry reasonable under the circumstances, the allegations and other factual contentions
 28 made above have evidentiary support”; and

b. “The signatory being warned that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission and the registration, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.”

34. In submitting a signed declaration to the USPTO, a declarant is charged with knowing what is in the declaration being signed, and by failing to make an appropriate inquiry into the accuracy of the statements, the declarant at minimum acts with a reckless disregard for the truth.

35. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she knew, or clearly should have known, that Lin had not “continuously used the mark in commerce for five (5) consecutive years after the date of registration” because it was evident that Lin was not the party using the MD mark and not the owner of the MD mark.

36. Lin’s trademark counsel at Kasha Law LLC, including Attorney Kelly Kasha, further knew that Lin had just licensed the MD trademark (and other trademarks) to La Canada four days before submitting the Section 15 Declaration, despite there being no discernible change in the actual use of the MD mark by La Canada following the License Agreement.

37. Accordingly both Lin, and Attorney Kelly Kasha, knew or clearly should have known at the time of the Section 15 filing that Lin, as the improperly named individual owner of the registration, had not used the MD mark in commerce continuously for five consecutive years since January 2014.

38. The submitted false Section 15 affidavit/declaration, as relied on by the USPTO, allowed Lin, as the current registrant, to obtain a new right which she would not otherwise have, specifically, the right to have her registration in litigation (including this litigation) accepted as conclusive evidence of her exclusive right to use the registered mark in commerce.

39. La Canada has now utilized and asserted that right improperly received under Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s MD registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive

1 evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the
2 incontestable registrations, including MD mark” [SAC, ¶35] and that MDalgorithms is infringing
3 La Canada’s rights arising from the purported registration.

4 40. The inclusion of false statements in a Section 15 affidavit/declaration is material
5 and here constitutes fraud on the USPTO warranting cancellation of the involved registration
6 under Section 14(3) of the Trademark Act.

7 **The “MD Intimate Restore” Registration and Subsequent Section 15 Fraud on the USPTO**

8 41. La Canada is the current owner of U.S. Trademark Registration No. 4603019, for
9 the mark “MD INTIMATE RESTORE” for “Anti-aging stem cell serum for topical cosmetic use”
10 in International Class 3.

11 42. On August 29, 2013, Lin’s trademark counsel, Kasha Law LLC, and specifically
12 Attorney John Kasha, filed the trademark application for the MD INTIMATE RESTORE mark in
13 the name of Lin as an “individual.” However, Lin was not the true owner of the filed MD
14 INTIMATE RESTORE application at the time of the filing of the trademark application, because
15 she, as the CEO of La Canada, filed as an individual when in fact the La Canada corporation
16 owned the mark. Listing Lin as the individual owner of the trademark application was an
17 incurable defect, as confirmed by TMEP Section 1201.02(c) and 37 C.F.R. Section 2.71(d),
18 resulting in the application being *void ab initio*.

19 43. On June 30, 2014, Lin’s trademark counsel, Kasha Law LLC, and specifically
20 Attorney Kelly Kasha, filed a Statement of Use on behalf of Lin, alleging (falsely) that Lin had
21 first used the mark in interstate commerce on February 1, 2014. Attorney Kelly Kasha also
22 submitted respective specimens of use in International Classes 3 and 5 for the MD INTIMATE
23 RESTORE mark. The specimens, which came from La Canada marketing materials, confirmed
24 that Lin was not the owner of the MD INTIMATE RESTORE mark and that she was not the party
25 using the mark in commerce. The MD INTIMATE RESTORE mark then registered on September
26 9, 2014.

27 44. On January 15, 2019, Lin entered into the License Agreement with La Canada,
28 where she licensed certain trademark registrations and applications (improperly filed in her name

1 as an individual), including the MD INTIMATE RESTORE mark, to La Canada. The License
 2 Agreement became effective on January 15, 2019.

3 45. MDalgorithms is informed and believes that Lin’s counsel at Kasha Law LLC
 4 assisted Lin in preparing and executing the License Agreement.

5 46. On March 12, 2019, Lin’s counsel of record, Kasha Law LLC, and specifically
 6 Attorney Kelly Kasha, filed an assignment with the USPTO dated March 11, 2019, whereby Lin
 7 assigned certain trademarks, including the MD INTIMATE RESTORE mark, to La Canada.

8 47. In accordance with Section 15 of the Lanham Act, 15 U.S.C. Section 1065, an
 9 affidavit or declaration of incontestability for the MD INTIMATE RESTORE registration, if the
 10 requirements of Section 15 were met, could be filed on or after September 9, 2019.

11 48. On September 9, 2019, the first possible day to file a Section 15 Declaration, Lin’s
 12 counsel of record, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15
 13 declaration on behalf of La Canada. Attorney Kelly Kasha signed the Section 15 Declaration on
 14 behalf of La Canada averring that the owner had “continuously used the mark in commerce for
 15 five (5) consecutive years after the date of registration . . . and is still using the mark in commerce
 16 on or in connection with all goods or services listed in the existing registration.” Attorney Kelly
 17 Kasha made this statement notwithstanding that she knew or clearly should have known that Lin
 18 had been the individual owner of the MD INTIMATE RESTORE registration until March 2019,
 19 and that Lin had never used the mark in commerce. In submitting the Section 15 Declaration,
 20 Attorney Kelly Kasha also affirmatively confirmed the following statements:

21 a. “To the best of the signatory’s knowledge, information and belief, formed after an
 22 inquiry reasonable under the circumstances, the allegations and other factual contentions
 23 made above have evidentiary support”; and

24 b. “The signatory being warned that willful false statements and the like are
 25 punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful
 26 false statements and the like may jeopardize the validity of this submission and the
 27 registration, declares that all statements made of his/her own knowledge are true and all
 28 statements made on information and belief are believed to be true.”

49. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration on September 9, 2019, she knew or clearly should have known the statement was false, because she knew or clearly should have known the owner of the registration was Lin until March 11, 2019, and that Lin, as the improperly named individual owner of the MD INTIMATE RESTORE registration, had clearly never used the mark in commerce (as confirmed by the La Canada marketing materials submitted as specimens of use), all of which precluded Attorney Kelly Kasha from declaring that at all times the owner of the MD INTIMATE RESTORE registration had “continuously used the mark in commerce for five (5) consecutive years after the date of registration.”

50. The false Section 15 affidavit/declaration was relied on by the USPTO and allowed La Canada to obtain a new right which it would not otherwise have, specifically, the right to have its registration in litigation (including this litigation), accepted as conclusive evidence of its exclusive right to use the registered mark in commerce.

51. La Canada has now utilized and asserted that right improperly received under Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s MD INTIMATE RESTORE registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the incontestable registrations” [SAC, ¶35] and that MDalgorithms is infringing La Canada’s rights arising from the purported registration.

52. The inclusion of the false statements in the Section 15 affidavit/declaration was material and constitutes fraud on the USPTO, warranting cancellation of the MD INTIMATE RESTORE registration under Section 14(3) of the Trademark Act.

The “MD 101” Registration and Subsequent Section 15 Fraud on the USPTO

53. La Canada is the current owner of U.S. Trademark Registration No. 3459245, for the mark “MD 101” for “Cosmetic preparation for maintenance and growth of eyelashes” in International Class 3.

54. On October 3, 2007, Lin’s then trademark counsel, Joseph Strabala of the Law Offices of Joseph Strabala, filed the trademark application for the MD 101 mark in the name of Lin as an “individual.” However, Lin was not the true owner of the filed MD 101 application at the time of the filing of the trademark application, because she, as the CEO of La Canada, was designated by her counsel as an individual owner when in fact the La Canada corporation owned the mark. Listing Lin as the owner of the trademark application was an incurable defect, as confirmed by TMEP Section 1201.02(c) and 37 C.F.R. Section 2.71(d), resulting in the application being *void ab initio*. The MD 101 mark then registered on July 1, 2008 as Reg. No. 3459245.

55. On July 1, 2013, Lin’s then counsel of record, Kasha Law LLC, and specifically Attorney John Kasha, signed and submitted a Section 8 declaration, concurrently providing a specimen of use of the MD 101 mark, which came from La Canada marketing materials, further confirming that Lin did not own the mark, was improperly named as the individual owner of the registration, and was not the party using the mark in commerce.

56. On December 12, 2014, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15 declaration on behalf of Lin. Attorney Kelly Kasha signed the Section 15 Declaration on behalf of La Canada averring that the owner had “continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration.” Attorney Kelly Kasha made this statement notwithstanding that she knew or clearly should have known that Lin had been the individual owner of the MD 101 registration for that entire five-year period and that Lin had never used the mark in commerce (as evidenced by the Section 8 specimen from La Canada submitted by her law firm). In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the following statements:

a. “To the best of the signatory’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support”; and

b. “The signatory being warned that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful

1 false statements and the like may jeopardize the validity of this submission and the
2 registration, declares that all statements made of his/her own knowledge are true and all
3 statements made on information and belief are believed to be true.”

4 57. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she
5 knew or clearly should have known the statement was false, because she knew or clearly should
6 have known that Lin had not “continuously used the mark in commerce for five (5) consecutive
7 years after the date of registration” because Lin, as the improperly named owner of the
8 registrations, was clearly not the party using the mark in commerce, as evidenced by the La
9 Canada materials displaying use of the mark which Lin’s counsel submitted in support of the
10 registration.

11 58. The false Section 15 affidavit/declaration was relied on by the USPTO and allowed
12 La Canada to subsequently obtain a new right which it would not otherwise have, specifically, the
13 right to have its registration in litigation (including this litigation), accepted as conclusive
14 evidence of its exclusive right to use the registered mark in commerce.

15 59. La Canada has now utilized and asserted that right received under Section 15
16 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s MD 101
17 registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive evidence
18 under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the incontestable
19 registrations” [SAC, ¶35] and that MDalgorithms is infringing La Canada’s rights arising from the
20 purported registration.

21 60. The inclusion of the false statements in the Section 15 affidavit/declaration was
22 material and constitutes fraud on the USPTO, warranting cancellation of the MD 101 registration
23 under Section 14(3) of the Trademark Act.

24 **The “MD Lash Factor” Registration and Subsequent Section 15 Fraud on the USPTO**

25 61. La Canada is the current owner of U.S. Trademark Registration No. 3432309, for
26 the mark “MD LASH FACTOR” for “Cosmetic preparation for maintenance and growth of
27 eyelashes” in International Class 3.

62. On March 30, 2007, Lin’s then trademark counsel, Joseph Strabala of the Law Offices of Joseph Strabala, filed the trademark application for the MD LASH FACTOR mark in the name of Lin as an “individual.” However, Lin was not the true owner of the filed MD LASH FACTOR application at the time of the filing of the trademark application, because she, as the CEO of La Canada, filed as an individual when in fact La Canada owned the mark. Listing Lin as the owner of the trademark application was an incurable defect, as confirmed by TMEP Section 1201.02(c) and 37 C.F.R. Section 2.71(d), resulting in the application being *void ab initio*. The MD LASH FACTOR mark then registered on May 20, 2008 as Reg. No. 3432309.

63. On May 20, 2013, Lin’s counsel of record, Kasha Law LLC, and specifically Attorney John Kasha, submitted a Section 8 declaration, signed by Lin, concurrently providing a specimen of use of the MD LASH FACTOR mark from La Canada marketing materials, which further confirmed that Lin did not own the mark, was improperly named as the owner of the registration, and was not the party using the mark in commerce.

64. On December 12, 2014, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15 declaration on behalf of Lin. Attorney Kelly Kasha signed the Section 15 Declaration on behalf of Lin averring that the owner had “continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration.” Attorney Kelly Kasha made this statement notwithstanding that she knew or clearly should have known that Lin had been the individual owner of the MD LASH FACTOR registration for that entire period of the mark’s registration and that Lin had never owned the mark or used the mark in commerce (as evidenced by the Section 8 specimen from La Canada materials submitted by her law firm). In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the following statements:

- a. “To the best of the signatory’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support”; and

b. “The signatory being warned that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission and the registration, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.”

65. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she knew or clearly should have known the statement was false, because she knew or clearly should have known that Lin had not “continuously used the mark in commerce for five (5) consecutive years after the date of registration,” because Lin, as the improperly named owner of the registrations, was clearly not the party using the mark in commerce.

66. The false Section 15 affidavit/declaration was relied on by the USPTO, and subsequently allowed La Canada to assert a new right which it would not otherwise have, specifically, the right to have its registration in litigation (including this litigation), accepted as conclusive evidence of its exclusive right to use the registered mark in commerce.

67. La Canada has now utilized and asserted that right received under Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s MD LASH FACTOR registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the incontestable registrations” [SAC, ¶35] and that MDalgorithms is infringing La Canada’s rights arising from the purported registration.

68. The inclusion of the false statements in the Section 15 affidavit/declaration was material, constituting fraud on the USPTO warranting cancellation of the MD LASH FACTOR registration under Section 14(3) of the Trademark Act.

MDALGORITHMS

69. Counterclaimant MDalgorithms, Inc. was founded by Yoram Harth, M.D., a world-renowned dermatologist and specialist, and CEO Oded Harth, a technological innovator who was named to Forbes 30 Under 30. MDalgorithms offers skincare and hair care products and services

1 online under the names MDacne (beginning in 2017) and MDhair (beginning in 2021),
 2 respectively.

3 70. MDalgorithms distinguishes itself from its competitors by selling its products
 4 through personalization. It utilizes its proprietary technology applying image analysis and AI to
 5 customize treatment kits for customers based on the customer's specific needs, via its MDacne
 6 mobile app (available via the App Store and Play Store), and at MDacne.com and MDhair.co.

7 71. The majority of MDalgorithms' customers begin the sales cycle by completing a
 8 quiz and submitting photographs of their skin or scalp before there is any commitment to
 9 purchase. MDalgorithms' AI-based software analyzes the customer information and images to
 10 personalize the products based on that specific customer need and profile, which the customer may
 11 then elect to purchase for shipment.

12 72. The overwhelming majority of MDalgorithms' sales of goods and services under
 13 MDacne come via the MDacne app and its corresponding website, mdacne.com. For roughly the
 14 past six years, MDalgorithms has sold a very high volume of goods and services under its MDacne
 15 mark, based on numerous transactions.

16 73. MDalgorithms owns Registration No. 4946004 for the mark MDacne, which issued
 17 on April 26, 2016, for "Computer software and downloadable computer software for education
 18 and advice in the field of care and treatment of skin disorders, namely, acne" in Class 9 and
 19 "Providing a website featuring information and advice in the field of the diagnosis and treatment
 20 of acne" in Class 41. It also owns additional registrations for the mark MDacne, namely, (a)
 21 Registration No. 5519511, which issued on July 17, 2018, for "Medicated skin treatment and
 22 cleansing creams" in Class 5, and (b) Registration No. 6668393, which issued on August 14, 2021,
 23 for "Non-medicated skin care preparations." All of the above registrations are on the Principal
 24 Register.

25 74. MDalgorithms' MDhair products and services are currently offered exclusively at
 26 MDalgorithms' website, mdhair.co. Since 2021, MDalgorithms has sold a high volume of goods
 27 and service under its MDhair mark
 28

75. MDalgorithms owns Registration No. 6617014 for the mark MDhair, which issued on January 11, 2022, for “Providing temporary use of on-line non-downloadable computer software for education and advice in the field of the care and treatment of skin and hair” and this registration is on the Supplemental Register.

76. As a result of its extensive and continuous use, MDalgorithms’ MDhair mark has acquired secondary meaning among the relevant consuming public.

77. When MDalgorithms began offering its MDhair products and services on mdhair.co in 2021, the website mdhair.com was dormant and listed as available for sale by an anonymous third party who chose to not publicly disclose its ownership of the site.

78. In November 2022, La Canada filed a Complaint against MDalgorithms which it served in March 2023, alleging that the latter’s use of MDacne and MDhair was infringing La Canada’s federal trademark registrations for what it collectively defined as the “MD Formative Marks” which, as established by MDalgorithms herein, consists almost entirely of invalid trademark registrations, namely, MD, MD 101, MD LASH FACTOR, MD INTIMATE RESTORE, MD BY SUSAN F. LIN M.D., MD WELLNESS BY SUSAN LIN M.D., and MD FACTOR.

79. La Canada asserts that MDalgorithms “combines the descriptive MD component with another term that describes the condition to be treated.” Yet nowhere in its Second Amended Complaint does La Canada assert that any of its MD Formative Marks (all of which contain “the descriptive MD component”) have acquired secondary meaning. La Canada relies solely on its trademark registrations (which are invalid) to assert its trademark rights in its claims against MDalgorithms.

80. La Canada’s attempt to monopolize the term “MD” for health and cosmetic products is further inconsistent with the crowded field of third-party uses utilizing “the root MD in combination with other terms” to signal to consumers that such personal care products have some affiliation or recommendation from an MD, or Doctor of Medicine.

81. Indeed, as the United States Patent and Trademark Office (“USPTO”) previously found, in rejecting La Canada’s attempt to register another MD-formative mark:

[T]he wording ‘MD’ is commonly used in the cosmetic preparations and supplement industries to notify the consumer that the goods are created by and/or recommended by medical doctors. Thus, the wording ‘MD’ in the applied-for mark merely describes a characteristic or feature of the goods

82. The USPTO’s determination is further confirmed by evidence of not just numerous third-party trademark applications and registrations for such personal care product uses “based on the root MD in combination with other terms,” but actual evidence of such third-party uses (a small sampling of which is detailed below):



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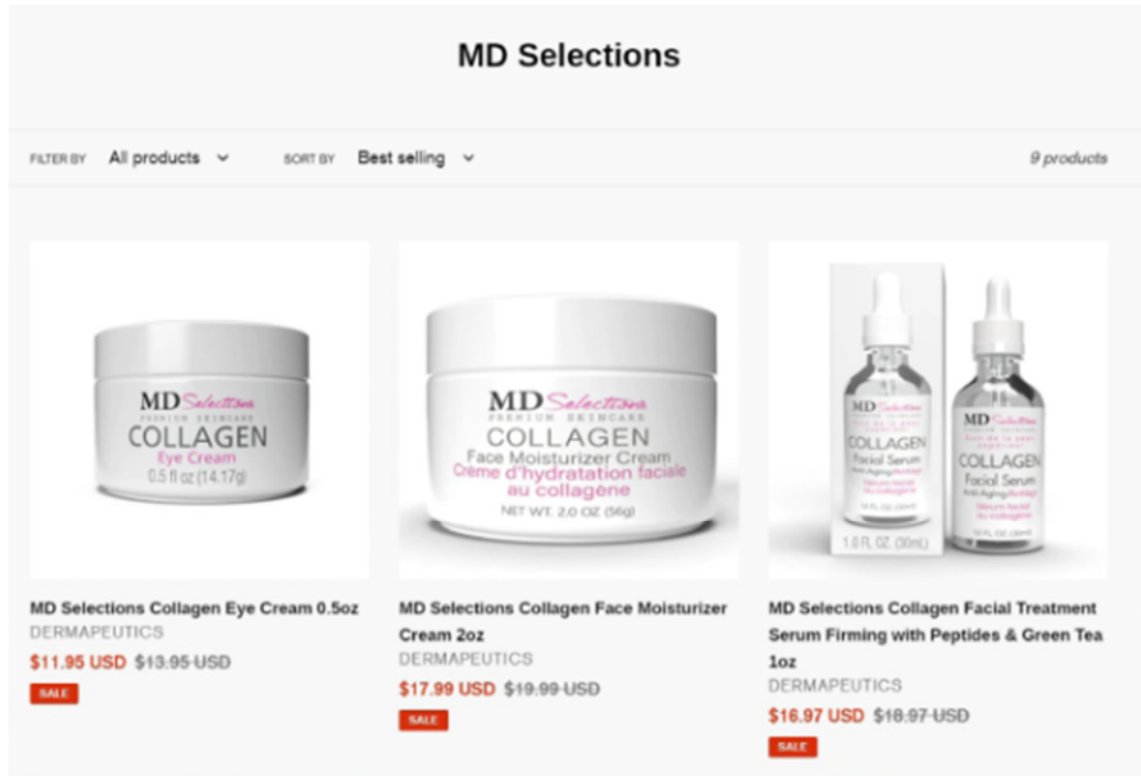
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83. The above demonstrates that while such a crowded field may permit La Canada and MDalgorithms to peacefully coexist given the measurable distinctions between their respective uses of MD NUTRI HAIR and MD HAIR, such coexistence becomes much more problematic

1 when La Canada purposefully and belatedly uses the identical term MD HAIR following
 2 MDalgorithms' use.

3 84. Notwithstanding that MDalgorithms, like numerous third parties, has long been
 4 utilizing its own marks containing "the root MD in combination with other terms," La Canada
 5 asserts that it has experienced actual confusion concerning MDalgorithms. What La Canada has
 6 not disclosed, however, is that it belatedly began to use the exact terms "MDacne" and "MDhair"
 7 after MDalgorithms' use of these terms.

8 **LA CANADA'S DECEITFUL ACTS RE MDHAIR**

9 85. When MDalgorithms began using MDhair for its haircare products, and to sell
 10 them exclusively at mdhair.co, La Canada offered a product named MD Nutri Hair, but it did not
 11 offer a product named MDhair (or MD Hair), nor did it utilize the website mdhair.com for any
 12 purpose (the website mdhair.com was inactive and listed for sale by an anonymous owner).

13 However, after learning of MDalgorithms' use of MDhair, La Canada purposefully began using
 14 mdhair.com to cause that URL to automatically redirect to La Canada's website, md-factor.com.

15 86. As La Canada did not promote or otherwise market its use of mdhair.com, or any
 16 product named or labeled MDhair, consumers looking for La Canada would have no reason to
 17 type in "mdhair.com" in their search for La Canada. Rather, as La Canada knew, the only reason
 18 consumers would have to go to mdhair.com is if they were in search of a product or company
 19 referenced as MDhair. La Canada's willful and deceitful use of mdhair.com, after being on notice
 20 of MDalgorithms' use of MDhair, deceived consumers looking for the manufacturer of MDhair to
 21 instead visit La Canada's website.

22 87. Once these customers were fraudulently diverted to La Canada, Counterclaim
 23 Defendant, with the knowledge that such visitors were in the market for haircare products, sought
 24 to sell its haircare products to these MDalgorithms' customers it had misdirected to the La Canada
 25 website.

26 88. In one instance, after it had successfully misdirected a customer attempting to
 27 locate MDalgorithms, La Canada pleaded with the individual to "Please try to order our MD Nutri
 28 Hair Supplements that are working for most of our customers. It is one of our hero products."

89. On another occasion, La Canada advised a customer looking for MDalgorithms to “[p]lease check our MD Hair [sic] products line,” and La Canada further advised the individual to “please feel free to browse our website or let me know if you need assistance.”

90. MDalgorithms is accordingly informed and believes that La Canada made it a practice of attempting to convert MDalgorithms’ customers to purchase La Canada’s products once the customers were misdirected to La Canada’s website through the latter’s deceptive tactics regarding mdhair.com.

LA CANADA’S DECEITFUL ACTS RE MDACNE

91. Not content to fraudulently induce MDalgorithms’ customers with its use of MDhair, La Canada also sought to attract consumers looking for MDalgorithms’ MDacne products, again despite that fact that La Canada did not offer a product named MDacne or MD acne. La Canada engaged in this conduct only after learning of MDalgorithms’ use of MDacne.

92. By way of one example, La Canada offers a product named MD Complexion Factor Exfoliating Cleanser. The term “MD acne” or “acne” does not appear on the front label:



1 93. As confirmed by the Wayback Machine, in July 2022 La Canada’s website
 2 description for the product labeled MD Complexion Factor Exfoliating Cleanser was “MD
 3 Complexion Factor Acne Cleanser.” However, after filing suit against MDalgorithms, and long
 4 after MDalgorithms had already been using the MDacne mark, La Canada purposefully changed
 5 its website description of the same product to “MD Acne Complexion Factor Acne Cleanser” – a
 6 blatant attempt to deceive those searching for MDalgorithms’ MDacne product:

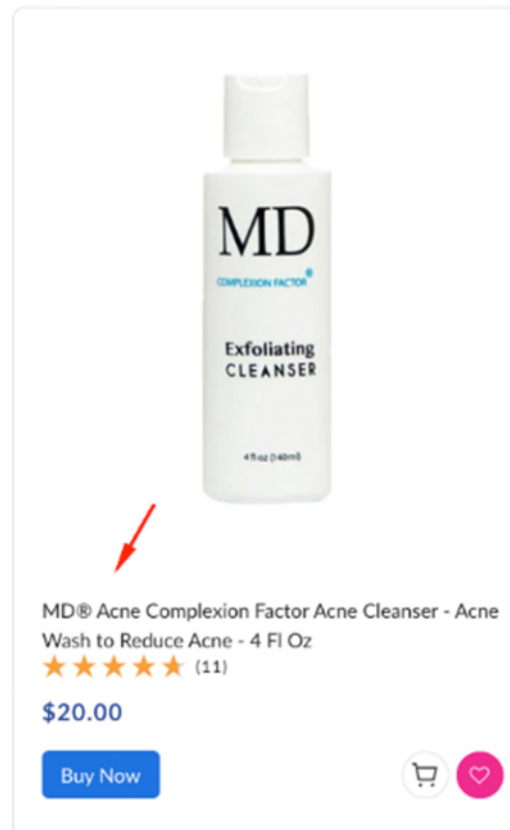
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LAW OFFICES
SIDEMAN & BANCROFT LLP
ONE EMBARCADERO CENTER, 22ND FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3711

Before (July 2022):



After (Current):



94. La Canada claims that its trademark rights are “based on the root MD” in “combination” with other terms. However, as noted above, the field of use of such MD-formative marks for personal care products is so incredibly crowded, and the scope of protection afforded such marks is accordingly so extensively narrow, that under these circumstances a party can be afforded protection only as to a third-party use that is identical, or nearly identical.

95. La Canada’s knowing and purposeful attempts to utilize the identical terms MDacne and MDhair to deceive the general public for its own benefit, despite not offering a product named or labeled MDacne or MDhair, and only after becoming aware of MDalgorithms’ use of MDacne and MDhair, is improper and unlawful, in addition to a disingenuous attempt seeking to belatedly shoehorn these marks into La Canada’s claimed scope of trademark rights, all of which has damaged MDalgorithms.

**FIRST CAUSE OF ACTION
CANCELLATION OF REGISTRATION
(MD FACTOR)**

96. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 95.

97. Pursuant to 15 U.S.C. Section 1064, a registration may be canceled “[w]ithin five years from the date of the registration of the mark” where it is filed in the name of the wrong party and cannot be cured by amendment.

98. MDalgorithms is informed and believes that Lin formed La Canada in approximately 2006.

99. On July 27, 2018, Lin caused to be filed in her name a trademark application for the mark MD FACTOR, averring that she was the “individual” owner of the application, for “Cosmetic preparations for beauty and wellness” in International Class 3. The registration alleges Lin’s first use of the MD FACTOR mark in interstate commerce on January 1, 2016.

100. The application registered on March 30, 2021 and was assigned Reg. No. 6309386. La Canada pleads this registration in its Second Amended Complaint against MDalgorithms.

101. Lin was not the true owner of the MD FACTOR mark at the time of filing of the trademark application, because she, as the CEO of La Canada, filed as an individual, when in fact

1 the La Canada corporation at all times owned and used the mark. Because Lin was identified as
 2 the “individual” owner of the MD FACTOR mark at the time of filing of the application, when in
 3 fact she did not own the mark, the trademark application was void as filed, and such defect is
 4 incurable pursuant to TMEP 1201.02(c) and 37 C.F.R. Section 2.71(d).

5 102. MDalgorithms therefore requests an order directing the USPTO to cancel La
 6 Canada’s U.S. Reg. No. 6309386 for the mark MD FACTOR pursuant to 15 U.S.C. §§ 1064 and
 7 1119.

8 **SECOND CAUSE OF ACTION**
 9 **CANCELLATION OF REGISTRATION**
 10 **(MD BY SUSAN F. LIN M.D.)**

11 103. MDalgorithms realleges and reincorporates by reference the allegations of
 12 Paragraphs 1 through 102.

13 104. Pursuant to 15 U.S.C. Section 1064, a registration may be canceled “[w]ithin five
 14 years from the date of the registration of the mark” where it is filed in the name of the wrong party
 15 and cannot be cured by amendment.

16 105. MDalgorithms is informed and believes that Lin formed La Canada in
 17 approximately 2006.

18 106. On October 17, 2018, Lin caused to be filed a trademark application in her name
 19 for the mark MD BY SUSAN F. LIN M.D., averring that she was the “individual” owner of the
 20 application, for “Cosmetics; hair shampoos and conditioners; non-medicated acne treatment
 21 preparations in the nature of facial cleaning preparation, namely, salicylic acne cleanser not for
 22 medical purposes; non-medicated toiletries in the nature of non-medicated toiletry preparations” in
 23 International Class 3 and “Acne treatment preparations; nutraceuticals for the treatment of hair
 24 loss; nutraceuticals for use as a dietary supplement.” Lin alleged a first use in interstate commerce
 25 by her of the MD BY SUSAN F. LIN M.D. mark on January 1, 2014.

26 107. The application registered on September 17, 2019 and was assigned Reg. No.
 27 5860508. La Canada pleads this registration in its Second Amended Complaint against
 28 MDalgorithms.

108. Lin was not the true owner of the MD BY SUSAN F. LIN M.D. mark at the time of filing of the trademark application, because she, as the CEO of La Canada, filed as an individual, when in fact the La Canada corporation at all times owned and used the mark. Because Lin was identified as the “individual” owner of the MD FACTOR mark at the time of filing of the application, when in fact she did not own the mark, the trademark application was void as filed, and such defect is incurable pursuant to TMEP 1201.02(c) and 37 C.F.R. Section 2.71(d).

109. MDalgorithms therefore requests an order directing the USPTO to cancel La Canada’s U.S. Reg. No. 5860508 for the mark MD BY SUSAN F. LIN M.D. pursuant to 15 U.S.C. §§ 1064 and 1119.

**THIRD CAUSE OF ACTION
 CANCELLATION OF REGISTRATION
 (MD WELLNESS BY SUSAN F. LIN M.D.)**

110. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 109.

111. Pursuant to 15 U.S.C. Section 1064, a registration may be canceled “[w]ithin five years from the date of the registration of the mark” where it is filed in the name of the wrong party and cannot be cured by amendment.

112. MDalgorithms is informed and believes that Lin formed La Canada in approximately 2006.

113. On July 27, 2018, Lin caused to be filed in her name a trademark application for the mark MD WELLNESS BY SUSAN F. LIN M.D., averring that she was the “individual” owner of the application for “Cosmetic preparation for beauty and wellness” in International Class 3 and “Vitamin supplement for beauty and wellness in the nature of nutraceuticals for use as a dietary supplement and for the treatment of hair loss.” The registrations claims a first use date in interstate commerce by Lin of the MD WELLNESS BY SUSAN F. LIN M.D. mark on January 1, 2017.

114. The application registered on January 19, 2021 and was assigned Reg. No. 6251811. La Canada pleads this registration in its Second Amended Complaint against MDalgorithms.

115. Lin was not the true owner of the MD WELLNESS BY SUSAN F. LIN M.D. mark at the time of filing of the trademark application, because she, as the CEO of La Canada, filed as an individual, when in fact the La Canada corporation at all times owned and used the mark. Because Lin was identified as the “individual” owner of the MD FACTOR mark at the time of filing of the application, when in fact she did not own the mark, the trademark application was void as filed, and such defect is incurable pursuant to TMEP 1201.02(c) and 37 C.F.R. Section 2.71(d).

116. MDalgorithms therefore requests an order that the USPTO cancel La Canada’s U.S. Reg. No. 6251811 for the mark MD WELLNESS BY SUSAN F. LIN M.D. pursuant to 15 U.S.C. §§ 1064 and 1119.

FOURTH CAUSE OF ACTION
CANCELLATION OF REGISTRATION
(MD)

117. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 116.

118. Pursuant to 15 U.S.C. Section 1064(3), a federal trademark registration may be canceled “at any time” upon a showing that a registration was procured or maintained via fraud upon the United States Patent and Trademark Office.

119. La Canada is the owner of U.S. Trademark Registration No. 4471491, for the mark “MD” for “Cosmetics; Hair shampoo and conditioners; Non-medicated acne treatment preparations; Non-medicated toiletries” in International Class 3 and “Acne treatment preparations; Nutraceuticals for the treatment of hair loss; Nutraceuticals for use as a dietary supplement” in International Class 5.

120. Lin filed the trademark application for the MD mark in her own name as an “individual” when she was not the actual owner of the MD Mark at the time of filing and not the party using the mark in commerce, as confirmed by the subsequent specimens of use submitted to the USPTO on behalf of Lin in support of her request to register the MD mark, which demonstrated use and ownership by La Canada. The MD mark then registered on January 21, 2014.

121. In accordance with Section 15 of the Lanham Act, 15 U.S.C. Section 1065, an affidavit or declaration of incontestability for the MD mark registration, if the requirements of Section 15 were met, could have been filed on or after January 21, 2019.

122. Just before that January 21, 2019 date, on January 15, 2019, Lin entered into the License Agreement with La Canada, where she licensed certain trademark registrations and trademark applications (improperly filed in her name as an individual) to La Canada. The License Agreement states that the license to La Canada became effective on January 15, 2019.

123. MDalgorithms is informed and believes that Lin's counsel at Kasha Law LLC, namely Attorney John Kasha and Attorney Kelly Kasha, assisted Lin in preparing and executing the License Agreement.

124. On January 21, 2019, the first possible day to file the Section 15 Declaration of Incontestability for the MD registration, Lin's counsel of record, Kasha Law LLC, submitted a Section 15 declaration on behalf of Lin. Specifically, Attorney Kelly Kasha signed the Section 15 Declaration on behalf of Lin averring that Lin, "the owner" had "continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration." In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the following statements:

a. "To the best of the signatory's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support"; and

b. "The signatory being warned that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission and the registration, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true."

125. In submitting a signed declaration to the USPTO, a declarant is charged with knowing what is in the declaration being signed, and by failing to make an appropriate inquiry into

1 the accuracy of the statements, the declarant at minimum acts with a reckless disregard for the
 2 truth.

3 126. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she
 4 knew, or clearly should have known, that the statement was false, because she knew or clearly
 5 should have known that Lin had not “continuously used the mark in commerce for five (5)
 6 consecutive years after the date of registration.” In fact, Lin’s trademark counsel at Kasha Law
 7 LLC, including Attorney Kelly Kasha, knew or should have known that Lin was not the true
 8 owner of the MD mark, that Lin was not the party using the mark in commerce, and further that
 9 Lin had just licensed the MD mark (and other trademarks) to La Canada four days before
 10 submitting the Section 15 Declaration, despite there being no discernible change in the use of the
 11 MD mark.

12 127. Moreover, on January 21, 2019, the same day that Attorney Kelly Kasha signed
 13 and submitted the Section 15 Declaration to the USPTO in support of the MD registration, she
 14 also signed and submitted a separate Section 8 Declaration in support of the MD registration with
 15 a supporting specimen of use, which also tellingly came from La Canada marketing materials,
 16 further confirming that Lin was not the owner of the MD mark and not the party using the mark in
 17 commerce.

18 128. La Canada has now utilized and asserted that right improperly received under
 19 Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s
 20 MD registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive
 21 evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the
 22 incontestable registrations, including the MD mark” [SAC, ¶35] and that MDalgorithms is
 23 infringing La Canada’s rights arising from the purported registration.

24 129. The inclusion of false statements in a Section 15 affidavit/declaration is material,
 25 and here constituted fraud on the USPTO warranting cancellation of the MD registration under
 26 Section 14(3) of the Trademark Act.

27 130. MDalgorithms therefore requests an order directing the USPTO to cancel La
 28 Canada’s U.S. Reg. No. 4471491 for the mark MD pursuant to 15 U.S.C. §§ 1064 and 1119.

**FIFTH CAUSE OF ACTION
CANCELLATION OF REGISTRATION
(MD INTIMATE RESTORE)**

131. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 130.

132. Pursuant to 15 U.S.C. Section 1064(3), a federal trademark registration may be canceled “at any time” upon a showing that a registration was procured or maintained via fraud upon the United States Patent and Trademark Office.

133. La Canada is the current owner of U.S. Trademark Registration No. 4603019, for the mark “MD INTIMATE RESTORE” for “Anti-aging stem cell serum for topical cosmetic use” in International Class 3.

134. La Canada’s Second Amended Complaint pleads its ownership of MD INTIMATE RESTORE against MDalgorithms, defining it as one of the “MD Formative Marks.” [SAC, ¶10]

135. On August 29, 2013, Lin’s trademark counsel, Kasha Law LLC, and specifically Attorney John Kasha, filed the trademark application for the MD INTIMATE RESTORE mark in the name of Lin as an “individual” but the actual owner of the MD INTIMATE RESTORE mark at the time of filing was not Lin, but the corporate entity La Canada.

136. Subsequent specimens of use in International Classes 3 and 5 for the MD INTIMATE RESTORE mark, as submitted to the USPTO on by Lin’s counsel on Lin’s behalf, confirmed that she was not the owner of the mark and that she was not the party using the mark in commerce, as such materials confirmed the actual use was by La Canada. The MD INTIMATE RESTORE mark then registered on September 9, 2014.

137. In accordance with Section 15 of the Lanham Act, 15 U.S.C. Section 1065, an affidavit or declaration of incontestability for the MD INTIMATE RESTORE registration, if the requirements of Section 15 were met, could be filed on or after September 9, 2019.

138. On January 15, 2019, Lin entered into the License Agreement with La Canada, where she licensed certain trademark registrations and applications (improperly filed in her name as an individual), including the MD INTIMATE RESTORE registration, to La Canada. The license to La Canada under the License Agreement became effective on January 15, 2019.

MDalgorithms is informed and believes that Lin’s counsel at Kasha Law LLC assisted Lin in preparing and executing the License Agreement.

139. On March 12, 2019, Lin’s counsel of record, Kasha Law LLC, and specifically Attorney Kelly Kasha, filed an assignment with the USPTO dated March 11, 2019, whereby Lin assigned certain trademarks, including the MD INTIMATE RESTORE mark, to La Canada.

140. On September 9, 2019, Lin’s counsel of record, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15 declaration on behalf of La Canada for the MD INTIMATE RESTORE registration. Attorney Kelly Kasha signed the Section 15 Declaration on behalf of La Canada averring that the owner had “continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration.”

141. Attorney Kelly Kasha made this statement notwithstanding the fact that she knew or clearly should have known that Lin had been the individual owner of record of the MD INTIMATE RESTORE registration until March 2019 and that Lin had not used the mark in commerce during that time. Attorney Kelly Kasha further knew or clearly should have known that Lin had only licensed the mark to La Canada less than eight months before signing and submitting the Section 15 Declaration and had only assigned the mark to La Canada just six months before submitting the Section 15 Declaration, despite no discernible change in the use of the MD INTIMATE RESTORE mark. In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the following statements:

a. “To the best of the signatory’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support”; and

b. “The signatory being warned that willful false statements and the like are punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission and the registration, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.”

142. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration on September 9, 2019, she knew or clearly should have known the statement was false, because she knew or clearly should have known that the owner of the mark, which was Lin until March 11, 2019, had not “continuously used the mark in commerce for five (5) consecutive years after the date of registration,” especially as all specimens of use demonstrated use only by La Canada during the time Lin was the owner of the registration.

143. The false Section 15 affidavit/declaration was relied on by the USPTO and allowed La Canada to obtain a new right which it would not otherwise have, specifically, the right to have its registration in litigation (including this litigation) accepted as conclusive evidence of its exclusive right to use the registered mark in commerce.

144. La Canada has now utilized and asserted that right improperly received under Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s MD INTIMATE RESTORE registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the incontestable registrations” [SAC, ¶35] and that MDalgorithms is infringing La Canada’s rights arising from the purported registration.

145. The inclusion of the false statements in the Section 15 affidavit/declaration was material, constituting fraud on the USPTO warranting cancellation of the MD INTIMATE RESTORE registration under Section 14(3) of the Trademark Act.

146. MDalgorithms therefore requests an order that the USPTO cancel La Canada’s U.S. Reg. No. 4603019 for the mark MD INTIMATE RESTORE pursuant to 15 U.S.C. §§ 1064 and 1119.

**SIXTH CAUSE OF ACTION
CANCELLATION OF REGISTRATION
(MD 101)**

147. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 146.

148. Pursuant to 15 U.S.C. Section 1064(3), a federal trademark registration may be canceled “at any time” upon a showing that a registration was procured or maintained via fraud upon the United States Patent and Trademark Office.

149. La Canada is the current owner of U.S. Trademark Registration No. 3459245, for the mark “MD 101” for “Cosmetic preparation for maintenance and growth of eyelashes” in International Class 3.

150. La Canada’s Second Amended Complaint pleads its ownership of the MD 101 registration against MDalgorithms, defining it as one of the “MD Formative Marks.” [SAC, ¶10]

151. On October 3, 2007, Lin’s then trademark counsel, Joseph Strabala of the Law Offices of Joseph Strabala, filed the trademark application for the MD 101 mark in the name of Lin as an “individual.” However, Lin was not the true owner of the filed MD 101 Application at the time of the filing of the trademark application, because she, as the CEO of La Canada, filed as an individual when in fact La Canada owned the mark. The MD 101 mark then registered on July 1, 2008 as Reg. No. 3459245.

152. On July 1, 2013, Lin’s then counsel of record, Kasha Law LLC, and specifically Attorney John Kasha, signed and submitted a Section 8 declaration, concurrently providing a specimen of use of the MD 101 mark, from La Canada marketing materials, which further confirmed that Lin was not the owner of the mark and not the party using the mark in commerce.

153. On December 12, 2014, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15 declaration on behalf of Lin. Attorney Kelly Kasha signed the Section 15 Declaration on behalf of Lin averring that the owner had “continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration.” Attorney Kelly Kasha made this statement notwithstanding that she knew or clearly should have known that Lin had been the individual owner of the MD 101 registration for that entire five-year period and that Lin had never used the mark in commerce (as evidenced by the Section 8 specimen submitted by her law firm showing use by La Canada). In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the following statements:

1 a. “To the best of the signatory’s knowledge, information and belief, formed after an
 2 inquiry reasonable under the circumstances, the allegations and other factual contentions
 3 made above have evidentiary support”; and

4 b. “The signatory being warned that willful false statements and the like are
 5 punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful
 6 false statements and the like may jeopardize the validity of this submission and the
 7 registration, declares that all statements made of his/her own knowledge are true and all
 8 statements made on information and belief are believed to be true.”

9 154. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she
 10 knew or clearly should have known the statement was false, because she knew or clearly should
 11 have known that Lin, as the improperly named individual owner of the registration, had not
 12 “continuously used the mark in commerce for five (5) consecutive years after the date of
 13 registration.”

14 155. The false Section 15 affidavit/declaration was relied on by the USPTO and allowed
 15 La Canada to subsequently obtain a new right which it would not otherwise have, specifically, the
 16 right to have the MD 101 registration in litigation (including this litigation), accepted as
 17 conclusive evidence of its exclusive right to use the registered mark in commerce.

18 156. La Canada has now utilized and asserted that right improperly received under
 19 Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada’s
 20 MD 101 registration is “incontestable pursuant to Section 15 U.S.C. § 1065, which is conclusive
 21 evidence under 15 U.S.C. § 1115 of the validity of La Canada’s marks covered by the
 22 incontestable registrations” [SAC, ¶35] and that MDalgorithms is infringing La Canada’s rights
 23 arising from the purported registration.

24 157. The inclusion of the false statements in the Section 15 affidavit/declaration was
 25 material and constitutes fraud on the USPTO warranting cancellation of the MD 101 registration
 26 under Section 14(3) of the Trademark Act.

27 158. MDalgorithms therefore requests an order directing the USPTO to cancel La
 28 Canada’s U.S. Reg. No. 3459245 for the mark MD 101 pursuant to 15 U.S.C. §§ 1064 and 1119.

**SEVENTH CAUSE OF ACTION
CANCELLATION OF REGISTRATION
(MD LASH FACTOR)**

159. MDalgorithms realleges and reincorporates by reference the allegations of Paragraphs 1 through 158.

160. Pursuant to 15 U.S.C. Section 1064(3), a federal trademark registration may be canceled “at any time” upon a showing that a registration was procured or maintained via fraud upon the United States Patent and Trademark Office.

161. La Canada is the current owner of U.S. Trademark Registration No. 3432309, for the mark “MD LASH FACTOR” for “Cosmetic preparation for maintenance and growth of eyelashes” in International Class 3.

162. La Canada’s Second Amended Complaint pleads its ownership of MD LASH FACTOR against MDalgorithms, defining it as one of the “MD Formative Marks.” [SAC, ¶10]

163. On March 30, 2007, Lin’s then trademark counsel, Joseph Strabala of the Law Offices of Joseph Strabala, filed the trademark application for the MD LASH FACTOR mark in the name of Lin as an “individual.” However, Lin was not the true owner of the filed MD LASH FACTOR Application at the time of the filing of the trademark application, because she, as the CEO of La Canada, filed as an individual when in fact La Canada owned the mark. The MD LASH FACTOR mark then registered on May 20, 2008 as Reg. No. 3432309.

164. On May 20, 2013, Lin’s then counsel of record, Kasha Law LLC, and specifically Attorney John Kasha, submitted a Section 8 declaration, signed by Lin, concurrently providing a specimen of use of the MD LASH FACTOR mark, which established use by La Canada (not Lin), confirming that Lin was not the owner of the mark and not the party using the mark in commerce.

165. On December 12, 2014, Kasha Law LLC, and specifically Attorney Kelly Kasha, submitted a Section 15 declaration on behalf of Lin. Attorney Kelly Kasha signed the Section 15 Declaration averring that the owner (Lin) had “continuously used the mark in commerce for five (5) consecutive years after the date of registration . . . and is still using the mark in commerce on or in connection with all goods or services listed in the existing registration.” Attorney Kelly Kasha made this statement notwithstanding the fact she knew or clearly should have known that

1 while Lin had been the individual owner of the MD 101 registration for that entire period of the
 2 mark's registration, Lin had never used the mark in interstate commerce (as evidenced by the
 3 specimen previously submitted by Kasha Law LLC showing use and ownership by La Canada).
 4 In submitting the Section 15 Declaration, Attorney Kelly Kasha also affirmatively confirmed the
 5 following statements:

6 a. "To the best of the signatory's knowledge, information and belief, formed after an
 7 inquiry reasonable under the circumstances, the allegations and other factual contentions
 8 made above have evidentiary support"; and

9 b. "The signatory being warned that willful false statements and the like are
 10 punishable by fine or imprisonment or both, under 18 U.S.C. § 1001, and that such willful
 11 false statements and the like may jeopardize the validity of this submission and the
 12 registration, declares that all statements made of his/her own knowledge are true and all
 13 statements made on information and belief are believed to be true."

14 166. At the time that Attorney Kelly Kasha submitted the Section 15 Declaration, she
 15 knew or clearly should have known the statement was false, because she knew or clearly should
 16 have known that Lin had not "continuously used the mark in commerce for five (5) consecutive
 17 years after the date of registration."

18 167. The false Section 15 affidavit/declaration was relied on by the USPTO, and
 19 subsequently allowed La Canada to assert a new right which it would not otherwise have,
 20 specifically, the right to have its registration in litigation (including this litigation), accepted as
 21 conclusive evidence of its exclusive right to use the registered mark in commerce.

22 168. La Canada has now utilized and asserted that right improperly received under
 23 Section 15 against MDalgorithms in its Second Amended Complaint, asserting that La Canada's
 24 MD LASH FACTOR registration is "incontestable pursuant to Section 15 U.S.C. § 1065, which is
 25 conclusive evidence under 15 U.S.C. § 1115 of the validity of La Canada's marks covered by the
 26 incontestable registrations" [SAC, ¶35] and that MDalgorithms is infringing La Canada's rights
 27 arising from the purported registration.
 28

169. The inclusion of the false statements in the Section 15 affidavit/declaration was material, constituting fraud on the USPTO warranting cancellation of the MD LASH FACTOR registration under Section 14(3) of the Trademark Act.

170. MDalgorithms therefore requests an order directing the USPTO to cancel La Canada's U.S. Reg. No. 3432309 for the mark MD LASH FACTOR pursuant to 15 U.S.C. §§ 1064 and 1119.

EIGHTH CAUSE OF ACTION
(Common Law Unfair Competition)

171. MDalgorithms realleges and incorporates by reference the allegations of Paragraphs 1 through 170.

172. MDalgorithms has continuously used the mark MDacne since at least 2017, and the mark MDhair since at least 2021.

173. MDalgorithms has existing federal trademark registrations on the Principal Register for the mark MDacne.

174. MDalgorithms has a federal trademark registration on the Supplemental Register for its mark MDhair and asserts that its use of MDhair has acquired secondary meaning among the relevant consumers.

175. MDalgorithms began use of MDacne and MDhair for its products prior to any claimed use of MDacne or MDhair by La Canada for its products.

176. Upon learning of MDalgorithms' use of MDacne and MDhair, La Canada began to deliberately use the identical MDacne and MDhair terms, such as for mdhair.com, intending to subjectively and knowingly confuse MDalgorithms' customers with respect to the source of MDalgorithms' products, notwithstanding that La Canada did not offer any products named or labeled "MD Acne" or "MD Hair."

177. MDalgorithms' customers were likely to be misled and were misled by La Canada's deceptive acts.

178. La Canada's acts have deliberately misled the relevant customers into believing that its goods are those of MDalgorithms.

179. La Canada's actions caused and continue to cause MDalgorithms competitive injury, such as by diverting MDalgorithms' sales to La Canada.

180. MDalgorithms is therefore entitled to an award of damages and equitable relief concerning La Canada's conduct.

NINTH CAUSE OF ACTION
(Unfair Competition in Violation of Cal. Bus. & Prof. Code Section 17200 et seq.)

181. MDalgorithms realleges and incorporates by reference the allegations of Paragraphs 1 through 180.

182. La Canada's fraudulent business practices directing MDalgorithms' customers to La Canada, through La Canada's uses of MDhair and MDacne as referenced above, were intended to deceive the public at large, and were likely to deceive the public at large.

183. La Canada's fraudulent business practices in utilizing MDacne and MDhair to lure and deceive these customers did in fact deceive such customers, as they relied upon La Canada's misrepresentations, causing injury to MDalgorithms, and profits to La Canada through soliciting MDalgorithms' customers that La Canada intentionally misdirected.

184. La Canada's conduct, as alleged herein, constitutes unlawful, fraudulent, unethical, oppressive, and deceptive business practices under California Business and Professions Code Section 17200 *et seq.*

185. La Canada's conduct, as alleged herein, is likely to continue to mislead the general public and, consequently, constitutes a fraudulent business act or practice within the meaning of California Business & Professions Code Section 17200 *et seq.*

186. These unlawful acts by La Canada will continue to deceive the public, unless enjoined.

187. As a direct and proximate result of La Canada's unfair business practices as alleged herein, MDalgorithms has lost money and suffered injury in fact, and will continue to suffer irreparable harm for which MDalgorithms does not have an adequate remedy at law, and therefore MDalgorithms is entitled to injunctive and such other relief.

PRAYER FOR RELIEF

WHEREFORE, Defendant and Counterclaimant MDalgorithms, Inc. prays for the following relief:

A. For an Order that La Canada, and its agents, servants, employees, attorneys and any related companies, and all persons in active concert or participation with one or more of them, be preliminarily and permanently enjoined and restrained from unlawfully using the MDhair and MDacne designations in the manner described above;

B. For an Order requiring an accounting and that La Canada pay over to MDalgorithms all monetary gains, profits, and advantages derived by La Canada from the acts complained of herein;

C. For an Order disgorging from La Canada all ill-gotten profits gained as a result of La Canada's acts of unfair competition;

D. For an Order adjudging and declaring that La Canada's deceptive acts are willful;

E. For an Order directing the Commissioner of Trademarks that the following trademark registrations are to be canceled by the United States Patent and Trademark Office:

i. U.S. Reg. No. 6309386;

ii. U.S. Reg. No. 6251811;

iii. U.S. Reg. No. 5860508;

iv. U.S. Reg. No. 4603019;

v. U.S. Reg. No. 4471494;

vi. U.S. Reg. No. 3459245; and

vii. U.S. Reg. No. 3432309;

F. For MDalgorithms' attorneys' fees;

G. For MDalgorithms' costs in this suit;

H. For prejudgment interest to the maximum extent recoverable by contract or law;

and

For such other relief as this Court may deem necessary or appropriate.

JURY TRIAL DEMANDED

Counterclaimant MDalgorithms, Inc. requests a trial by jury for all issues so triable.

DATED: October 11, 2023

Respectfully submitted,

SIDEMAN & BANCROFT LLP

By: /s/ Ian K. Boyd

Ian K. Boyd

Attorneys for Defendant and Counterclaimant
MDALGORITHMS, INC.

LAW OFFICES
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Exhibit A



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MDhair

Reviews 124 • Average



3.6 ⓘ

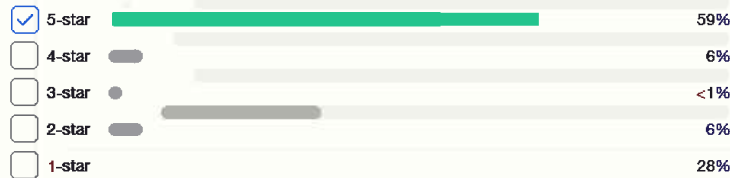
[mdhair.co](#)

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Reviews 3.6

124 total



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TJ

Taal Joeng

2 reviews • US



Aug 22, 2023

Affordable AND Effective

I took a chance on this brand because I figured it wouldn't be a huge loss if their eyebrow serum didn't work given the price. Not only is it more affordable than that popular brand's version, it genuinely works and maintains the new hair growth incredibly well. I'm excited to try out their other products. I highly recommend giving MDhair a try.

Date of experience: June 12, 2023

Useful

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ML

Madison Lynne

2 reviews • US



Aug 18, 2023

You won't regret it.

MDhair is incredible!!!

Firstly. These products are amazing. And the customer care/service is top notch. Their products are also reasonably priced. Even better they actually WORK! You do a quick survey, questionnaire to see what would best suit you. They analyze it and give you recommendations. You can pick the best set for you and change which products to receive in your next shipment. They're products you use daily. And let me tell you. I don't even use mine everyday (I'm very forgetful at times or just in a rush) and for the

Company activity

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No verified details yet



Replied to 3 out of 41 negative reviews



Replies to negative reviews in < 1 month

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About MDhair

Information written by the company

A first-of-its-kind, patent-pending, customized growth solution developed by dermatologists. Forget about one-size-fits-all serums and medications. Your customized treatment kit will be designed to target the specific root causes of your hair loss, resulting in healthier, thicker hair.

Contact


support@mdhair.co


548 Market St, #86774
94104
San Francisco
United States

Category ⓘ

[Hair Product Store](#)
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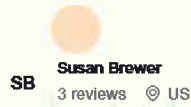
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results I'm seeing just from the short amount of time I've been using their products. Is phenomenal. Pregnancy killed my hair and MDhair is helping me get my confidence back. I saw new growth fairly quickly. I've tried other stuff before. Nothing is as good as MDhair.

Date of experience: August 18, 2023

Useful Share



SB Susan Brewer
3 reviews US



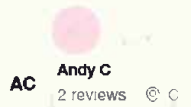
Aug 17, 2023

Amazing,wonderful

Amazing,wonderful, helpful is what I have to say about this company. And the product, the same!
I have used it for over a year and I had a little problem that they did back flips to make me happy.
I seriously recommend this product (and the company)!! Their amazing!!!

Date of experience: August 04, 2023

Useful Share



AC Andy C
2 reviews C



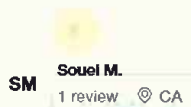
Aug 11, 2023

Don't give up hope, until you have tried MDhair

After trying various hair growth and anti-thinning hair products to no avail, I almost gave up, then I found an ad by MDhair online. I decided to try it because it came as a kit that feeds your hair from the inside and also from the outside. you take the collagen and the hair vitamin (internally) then the shampoo and the hair serum for (external) use. I notice that where my hair was falling or thinning slowed down and I started to see new hair growth, and it's improving every day. My suggestion to anyone that is experiencing thinning hair or somehow whose hair is not as it once was is to give MDhair a try you will not regret it.

Date of experience: May 09, 2023

Useful 1 Share



SM Souel M.
1 review CA



Aug 6, 2023

One of the best decisions I've made

One of the best decisions I've made! Was hesitant initially but glad I took the leap as it has made improvement to my hair, thus, to my self-confidence. Hair started looking more dense and I only just started too! MDHair has been very helpful with my questions about the treatment. Definitely recommended!

Date of experience: August 06, 2023

Useful 1 Share



KK Kim Kovacs
2 reviews US



Aug 8, 2023

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Take a closer look

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I started using the MDhair line about 2 1/2 months ago as I have really thin hair that has also been falling out like crazy. Your 1st shipment will contain shampoo, hair serum and some supplements. The bottles are smaller than regular shampoo bottles but that is because you only have to use a small amount of the product. I shampoo the top of my head, put conditioner on the ends then let the products do their job while I continue showering. After 5 minutes, I rinse. Since I have been using the products, I can tell a noticeable difference in the amount of hair falling out. I have less hair shedding and my hair looks and feels healthier. I was a bit skeptical when I first heard about the products, but now I am hooked! I highly recommend this product to anyone experiencing hair loss and thinning. Try it, you won't be disappointed.

Date of experience: August 08, 2023

Useful 1 Share



Lyndsay McClellan

1 review US



Aug 3, 2023

MDHair Conditioner

I've been using the MD Hair conditioner along with my subscription box and my hair has never felt better. I've always struggled finding a conditioner that feels great and also gets rid of the knots that I have even when I get out of the shower. 6 weeks in and I've seen a decline in shedding!

Date of experience: August 03, 2023

Useful 1 Share



Lisa T

1 review NZ



Aug 7, 2023

Amazing products which work!

Great products that work well and smell amazing. They don't have that harsh chemical smell of many other products. I have been using this for almost 3 months and right from the 1st week, I noticed a 90% decrease in hairfall and in the next few months, I noticed new hair growth where I part my hair. They don't leave a greasy residue in my hair either and my hair is also softer than ever. They ship worldwide too which is amazing!

Date of experience: August 07, 2023

Useful 1 Share



Simone Gallimore-Mcpherson

1 review VG



Aug 3, 2023

My experience using the MDhair...

My experience using the MDhair treatment has been a great help for my hair. Thus far my hair is manageable and not as dry and brittle as before. This is truly a breakthrough for me because over the years I have tried so many other products and they did not help, and for that reason it cause severe damage of my hair. I am very hopeful and grateful I came across this product. Looking forward to a bright and successful hair growth. Thanks MDHAIR!!!!

Date of experience: July 22, 2023

Useful 1 Share

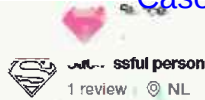


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Key Notes Guide





Jul 14, 2023

MD hair products are amazing

MD hair is an amazing company with great products, the hair serums have saved my hair. I currently use the shampoo and the restore serum in the morning after drying my hair and the regrowth serum in the evening and the results have been great. I live in the Netherlands and I am really happy I have discovered them. Lovely customer service too! Kind regards Iris

Date of experience: July 14, 2023

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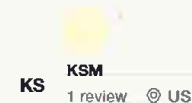
Jul 21, 2023

My hair was falling out I could do...

My hair was falling out I could do nothing with it. Then I found MD Hair. I was doubtful at first but gave it a try in December 22. So far the results are good. When my daughter trimmed my hair she had noticed a difference and I noticed my hair is growing back in my own colour. Also my eyelashes, eyebrows and my fingernails have improved too. My next treatment is to thicken my hair so I'm looking forward to the results. Would recommend give MD Hair a try.

Date of experience: July 21, 2023

Useful 1 Share



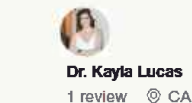
Jun 23, 2023

These products work!

I've been using the hair restore serum and supplement formula for just over a month and I've seen a very significant improvement. I'm 63 with a full head of hair, but began to notice thinning at the part and crown, a thinner ponytail and a truly alarming amount of hair shedding when combing. I was picking hair strands off my clothing all day too. I'd say the shedding has reduced by 70% or more so far, and the scalp at the part line isn't as visible. Success!

Date of experience: June 23, 2023

Useful 1 Share



Jul 12, 2023

I've had a good experience working with...

I've had a good experience working with MD Hair. Very responsive to emails and are good communicators. The product itself is helping my hair grow. I've had really severe postpartum hair loss and I've done it all. I take the supplements and use the hair care system. I've been using it now for about 3 months and it's going well. Excited to see how much more growth comes in.

Date of experience: July 12, 2023

Useful 1 Share



Jul 2, 2023

Great Hair Products

I have been battling with thinning hair for many years. I have been using MD Hair products for a few months now and am very happy with the results. The customer service team is professional and always respond to my questions timeously. They check up on me as a courtesy which is great. Using these products and seeing the results has definitely boosted my self confidence.

Date of experience: July 02, 2023

Useful 1 Share



Jun 29, 2023

I absolutely love mdhair!

I absolutely love mdhair. I have been using the system for a year and my hair has grown back. I was shedding like crazy and my hair line was embarrassing. I have been taking the daily vitamin along with using the shampoo and serum. I highly recommend mdhair as well as staying positive and believing.

Date of experience: June 28, 2023

Useful 1 Share



Jul 30, 2023

Very good product

Very good product. I've used it for 3 months and have seen improvement on my hair growth and reduction in hair loss. Looking forward to the next progress.

Date of experience: July 30, 2023

Useful 1 Share



Jun 18, 2023

Highly recommend

I have been using the shampoo, conditioner and serum for the last 6 months and I absolutely love it. Even my husband has noticed my hair looking thicker. The conditioner is wonderful, I use the tiniest amount and massage it into my scalp and I can distribute it throughout all of my hair. My hair has never looked or felt healthier. I will 100% be continuing with my treatment.

Date of experience: June 18, 2023

Useful 1 Share



Let's Find Your Fragrance



AN

Anna

1 review

US



Jun 11, 2023

Their customer service is TOP NOTCH

Their customer service is beyond stellar. Everyone has been so patient and understanding with all of my questions and concerns. The items that have been suggested for my kit have been wonderful. Their Restore Shampoo has also made it possible for me to extend my hair coloring appointments. It has been over 6 months, and my hair is still less than 50% gray. Typically, after 3 months, I need to go back in for a touchup. My hair feels clean and thicker after I use their shampoo and conditioner. I still shed hair when I wash my hair but not the amount that I did when I used Nutrafol products.

Date of experience: June 11, 2023

Useful 1

Share



Khushboo Panchal

1 review

CA



Jul 20, 2023

I had a few thin hair on the sides of...

I had a few thin hair on the sides of my forehead and my hair fall was through the roof. I came across to MD hair while I was watching Tina Lee on YouTube. I immediately tried the quiz and ordered my first subscription. I now have my second one in my house and I am so happy I ordered. My hair feels thick, the hair fall has reduced a LOT and my so called bald spot has hair now Very happy with the results.

Date of experience: July 20, 2023

Useful 1

Share



Clarissa Mullins

6 reviews

GB



May 30, 2023

MDHair has been wonderful

MDHair has been wonderful. Their staff really works with you to get to the source of the problems and their products actually treat those problems. I've seen less hair loss and shedding so far but am early on in my treatment and am looking forward to the regrowth phase.

Date of experience: May 30, 2023

Useful

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Beauty & Well-being > Cosmetics & Makeup > Beauty Product Supplier > MDacne



MDacne

Reviews 948 • Great



4.0 ⓘ

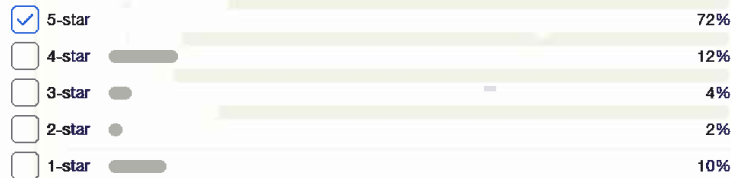


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Reviews ★ 4.0

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Ashley Lynch

1 review US



2 days ago

One of the 1st skin regime I had...

One of the 1st skin regime I had actually work! I am in love with these products and am so thankful for MDacne! They have come out with a specialized personalized to our skin which makes a huge difference for us as customers! I recommend anyone who is sick and tired of wasting money on tons of skincare products and dermatology and facials with no success or short term results. Try this product!!

Date of experience: August 01, 2023

Useful Share



Monika Kelly

1 review CA



Aug 14, 2023

A must try!

My MDacne experience has been great. Customer service is awesome, I love the advice I've received so far. Products have been great, I love the simplicity of the routine yet it's very effective.

Date of experience: August 14, 2023

Useful Share



Maribel Montoya

1 review US

[www.mdacne.com](#)

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Company activity

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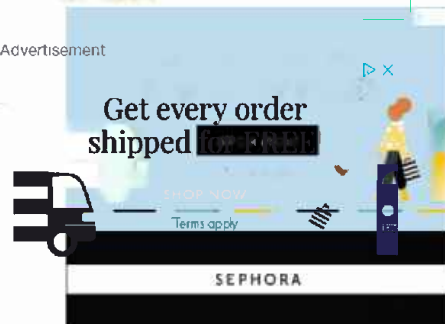
Replied to 1 out of 36 negative reviews

Replies to negative reviews in < 24 hours

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About MDacne

Information written by the company

#1 Acne app for analyzing acne prone skin. Real-time information about acne type and severity together with a custom personal acne treatment plan.

Contact

support@mdacne.com

San Francisco
United States

Category ⓘ

Beauty Product Supplier

The Trustpilot Experience

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Aug 19, 2023

I love MDacne products!

I love MDacne products!! It's amazing for my face, and the way I feel after washing my face is incredibly amazing!!! And there videos on how much to apply, and how to do it is really awesome of them! I love MDacne, and if your not trying it you really should!

Date of experience: August 19, 2023

Useful Share



RY Rylee
1 review US



Aug 18, 2023

good results

i can see a distinct difference in my skin. i started off with really bad acne and scaring and its gotten so much better.

Date of experience: August 18, 2023

Useful Share



Arnaud Rodney
1 review US



Aug 11, 2023

I've been using Md acne almost 2 years...

I've been using Md acne almost 2 years now and it's one of the best thing that I could have done for my skin. Yes of course in the beginning you'll have a purging stage but after that purging stage the treatment make wonders.

Date of experience: August 11, 2023

Useful 1 Share



MW Mark Watt
1 review GB



Aug 8, 2023

MDAcne - Great Products

The service provided has been great , the treatment cream , moisturiser , cleanser and shave cream have worked well for me , it's taking a bit of time for my skin to get used to the products but now I'm starting to see benefits from them. Would highly recommend.

Date of experience: August 08, 2023

Useful 1 Share



Charlene Gardner
1 review US



Jul 3, 2023

I have struggled with ance so long

I have struggled with ance so long. So I saw this ad on Facebook and read the reviews. I tried everything else so why not. So it came really fast because they were offering a trial just pay shipping. The trial was large than I expected. So I tried it, the next morning I was like my mind is playing tricks because my skin looked really smooth and clear. Then later that day my sister complemented on how clear my skin looked. I can't wait to see how my skin will look with continued use.

Date of experience: July 04, 2023

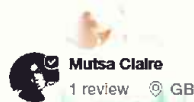
Useful 1 Share

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Take a closer look



Jun 19, 2023

Thankyou MDacne!

I've just read some of these reviews and all I can say is wow, I guess everyone's experience is different. I started using MDacne about a month ago and I was abit skeptical but I thought let me give it a try. At first it seemed like nothing was happening but you've got to be patient with these things as you're not going to see overnight results. Slowly but surely I began to see results and my acne is really clearing up. I use the products every day as direct with my own moisturiser and sun cream too! Please remember that this is more of a subscription per se, so don't be surprised when the money is taken every month - I was caught off guard the first time but I've altered the date I'm going to get charged. Thankyou to the creators of MDacne, you're really doing a good job! I'm sorry to those who have had a bad experience but still if you're yet to try the products, give it a go and see. Also this is a genuine review - I'm not a bot or anything, I'm a real person just giving my honest opinion on MDacne!

Date of experience: June 19, 2023

Useful 1 Share



Mar 7, 2023

Genuinely worked so perfectly for my...

Genuinely worked so perfectly for my skin. I've tried quite a few and they were good but I think this one did the magic. Eating better and drinking loads of water per day, my skin has become much better. Sometimes I feel the dryness after washing my face but I literally don't mind it. It's not tooo dry and with the facial cream plus any suitable cream, you'll be fine. It's definitely a 5 star for me! I personally started seeing results from the first day!!!!

Date of experience: March 08, 2023

Useful 1 Share



Apr 18, 2023

Within only a week of using my...

Within only a week of using my customized treatment, it has reduced my redness, as well as got my excessive oily skin under control. Not leaving me too dried out at the same time.

Date of experience: April 18, 2023

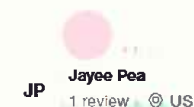
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Aug 12, 2022

THE GOT THE RECIPES

We all know how going anywhere with breakouts are simply THE WORST!!!
 First Off...WHO EVER MADE THIS LIQUID GOLD FOR-SURE KNOWS THE SECRET
 FORMULA TO THE " CRABBY PATTY" I CANNOT TELL YOU HOW MANY
 DERMATOLOGIST I HAVE SEEN FACE TO FACE THAT GAVE ME THE WRONG
 STUFF !!!! tragic MADE EVERYTHING WORST!!!! THIS TEAM OF DERMATOLOGIST
 GOT MY WHOLE VIBE TOGETHER OVER AN APP makes me wonder WHY DID I
 WAIT SO LONG!!!

SINCERELY, A clear FACE FRIEND!!! thank you so much seriously

Date of experience: August 12, 2022

Useful 1 Share



Nikki m

1 review GB



Feb 19, 2023

Amazing!!!

It is very easy to use, it works so well and the ingredients used are proven to work. I
 have an ongoing issue with acne but it cleared up so well!!! However I am on the
 contraceptive implant so I do break out often, but because of these creams, it's made
 it very minimal and if I weren't using them, it would be so different.

Date of experience: February 19, 2023

Useful 1 Share



Omokaro Elizabeth

2 reviews NG



Jun 26, 2022

My Skin clearing Angel.MDacne

I started this journey of skin clearing with MD acne having mixed feeling because I
 had continuous abortive treatments with almost all the so called acne treatments I
 had come across and so I met MDacne. I tried the product by 'faith' and almost gave
 up at some points because it appeared to be getting worst at first but with patience I
 continued also the daily routine reminders were good to remind me and suddenly I
 realised I was looking good. My skin was cleaner and smoother. Kisses and hugs to
 the team.

Date of experience: June 26, 2022

Useful 1 Share



Nina

6 reviews GB



May 14, 2023

Absolutely brilliant

Absolutely brilliant! I cannot recommend MDacne enough! I used to have severe acne
 until I started using the customised products they sent me. In under a month my skin
 is nearly clear.

Date of experience: April 22, 2023

Useful 1 Share



Maryn Ksy

1 review US



Apr 27, 2023

This skin supplements helped to reduce...

This skin supplements helped to reduce my acne and also black spot The only thing

was that during my first two weeks I felt uncomfortable swallowing the pills but I became used to it later

Date of experience: March 21, 2023

Useful 1 Share



DE Dominion Ebeye
2 reviews GB



Oct 7, 2022

Lovely products

It's been roughly a week since I started using MDacne treatment. My skin seems to be going back to normal. It's happening way faster than expected cos it says you should expect improvement after 2 - 4 weeks. If you're looking for something effective try it out and the fact that the first set is pretty Free is amazing. Thanks MDacne.

Date of experience: October 06, 2022

Useful 1 Share



DK Diksha Kamboj
1 review AU



Jul 4, 2022

I remember when i started the...

I remember when i started the treatment, after applying every single product online and still not satisfied. I lost so much confidence. And then mdacne helped to gain my confidence back. Feeling so much better now. Massive difference and very highly educated nurses online advising after assessment. So happy :)

Date of experience: July 04, 2022

Useful 1 Share



SK Scott Kunze
2 reviews US



Aug 16, 2022

I tried out their shaving Cream after...

I tried out their shaving Cream after Neutrogena discontinued their skin clearing formula. This product is every bit as good as the Neutrogena equivalent, if not better. Right away I was getting less bumps and break outs. I use this with a safety razor and just a little can cover your whole face.

Date of experience: August 16, 2022

Useful 1 Share



RF Rozella Fall
1 review US



May 5, 2022

MDacne is awesome

MDacne has been a great experience so far. I've tried other online acne prescriptions and they never went out of their way like the team at MDacne does. They check in on you weekly, actually look at your progress photos, and adjust your shipments based on how your face is looking. I definitely recommend them to anyone who's looking for a good acne treatment. 10/10 awesome service.

Date of experience: May 06, 2022

Useful 1 Share



KA

KAREN

2 reviews GB



Oct 20, 2022

My troubled skin journey is finally over...

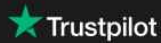
My troubled skin journey is finally over and it's been so easy! It's such a relief to have normal skin after a year of really bad acne, the frustration of failed treatments, and expensive medications/creams. My skin started to clear as I go on using the customised treatments from MDacne. MDacne's sulfur treatment cream has truly changed my skin. Its so easy to use & apply and truly you could see guaranteed results as fast as 2weeks.

This is by far the best product I have ever tried of any kind, in my LIFE 🙌 Thanks a lot MDacne 😊

Date of experience: October 20, 2022

👍 Useful 1

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